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Board of Editors

CALEB PERRY PATTERSON GEORGE WARD STOCKING
MAX SYLVIUS HANDMAN

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NEW GUINEA UNDER AUSTRALIAN MANDATE RULE

BY LUTHER HARRIS EVANS

Dartmouth College

The mandated territory of New Guinea, composed of the northern half of the eastern portion of the Island of New Guinea and numerous other islands scattered over a considerable area south of the equator in the Pacific Ocean, has an area almost as large as the State of Oregon and a population about half as large as that of Oregon, or an area half that of Germany and a population half that of Paraguay. To be exact, the area is about ninety-two thousand square miles, of which 70,000 are on the mainland, and the population is estimated at 427,000, of whom 220,800 are on the mainland. Most of the territory lies just north of Australia; its outermost limits are as follows: (1) Northern, 0° 45′ S.; (2) Southern, 8° S.; (3) Eastern, 159° 25′ E.; (4) Western, 141° E. Thus, its extreme points lie apart over 400 nautical miles from north to south and over 1,100 nautical miles from west to east. This territory is a portion of the island possessions of the German Empire in the south seas as they were before the war; it was not delineated as an administrative unit under German rule, but has become so under the mandate régime. The population is of low civilization, the climate is tropical, and the region is little known, and the general situation such that the operation of whatever government may rule these people should be brought into the fullest light. For this reason the functioning of the mandates system in the territory of New Guinea should prove of considerable interest.

The attitude of the Australian colonies and later of the Commonwealth had been consistently hostile to the possession of any part of New Guinea and the adjacent islands by Germany. Their strategic value for purposes of an attack upon Australian territory had thrown fear into the hearts of Australian statesmen for a long time prior to the war of 1914–1918. Naturally, therefore, as soon as the war broke out, one of the first objectives of the people of the Commonwealth was to conquer the German possessions to the north. This they did in short order, full of determination that the territory should never again be under the rule of a foreign power.

The Commonwealth governed the territory for the period of the war, and when the Paris Peace Conference met, her Prime Minister presented demands for the annexation of the captured islands to the Commonwealth. Great difficulty was experienced by the proponents of the mandates scheme in converting him to the majority position. This they finally did, however, upon the distinct understanding that Australia should be made the mandatory for all the former German Pacific possessions south of the equator, excepting only Samoa and Nauru.

Australia's war-time authority over New Guinea was based upon conquest by the British Empire. The Commonwealth was allowed to exercise this authority during the war; but the Imperial Government reserved the right of determining, in agreement with the other interested powers, the final disposition of the territory. The government which was set up under the authority thus derived was necessarily a temporary military government. Yet it had to perform the regular work of government, and it is of significance to observe the similarities and differences between the machinery of government and policies of the temporary régime and of the permanent mandate régime.

I. Constitutional and Political Development

The titles used to designate the territory taken from the Germans in some cases indicated the desire and the intention to consider the territory as future British territory. Among these terms are the following: "the British Administration of

German New Guinea," "the Colony," and "the Possessions."[1] During the military administration all powers of legislation were vested in the commanding military officer, subject to the conditions of the occupation and to instruction from the Commonwealth Government.[2] Regarding the German advisory council as quite superfluous, the military administration abolished it and put nothing in its place. Except for a short time, during which justice was administered by courts-martial, the regular system of justice was maintained and utilized. The German court system was continued in practice almost in its old form, and even some of the German judges continued in office until they could be replaced by Australian officers. "In accordance with the principles of international law relating to territory in military occupation, very little change was made during the military occupation in the general body of German law. The codes were amended only in minor details, few of the ordinances were altered, and little legislation on new subjects was found necessary." The taxation system was changed in several respects, although many features of the German system were retained. For instance, the German

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[1]*Report to the League of Nations on the Administration of the Territory of New Guinea, from September, 1914, to June 30, 1921*, p. 5.

The materials used in the preparation of this article are mainly the *Reports* to the League by the mandatory power, and the *Minutes* of the sessions of the Permanent Mandates Commission. The former include the *Report* just cited; *Report to the League of Nations on the Administration of the Territory of New Guinea from July 1, 1921, to June 30, 1922; Report to the League of Nations on the Administration of the Territory of New Guinea from July 1, 1922, to June 30, 1923; Report to the League of Nations on the Administration of the Territory of New Guinea from July 1, 1923, to June 30, 1924; Report to the League of Nations on the Administration of New Guinea from July 1, 1924, to June 30, 1925; Report to the Council of the League of Nations on the Administration of the Territory of New Guinea from July 1, 1925, to June 30, 1926; Report to the Council of the League of Nations on the Administration of the Territory of New Guinea from July 1, 1926, to June 30, 1927.* These documents will be cited hereafter by a short title, *e. g., Report for 1924–1925.* The Permanent Mandates Commission documents include: *Permanent Mandates Commission: Minutes of the First Session, held in Geneva, October 4 to 8, 1921*, on to the *Minutes of the Thirteenth Session held at Geneva from June 12 to 29, 1928.* They are hereafter cited as *P.M.C. Minutes of the Tenth Session (Nov., 1926)*, etc.

[2]*Report for 1914–1921*, p. 7.

tariff was retained until May, 1916, and the changed tariff was not very different from the German tariff. The native head tax remained the same, but licenses, fees, etc., were changed to some extent.[3]

In the treatment of the natives, there was apparently some advance in better treatment during the military occupation. The regulations concerning the recruitment and employment of natives under contract were improved, and were more rigidly enforced than under German rule, according to the official Australian version. Also the non-indigenous races were placed on a level with the whites, as concerned legal rights, a position which only the Japanese had enjoyed under German rule.[4]

German subjects residing in the territory, other than German officials who were returned to Germany, were allowed to remain in the territory and to carry on their ordinary occupations. The conduct of these Germans was fairly satisfactory, although about ninety-five were deported and interned in Australia, and some sixty-five others voluntarily left the territory.[5]

The land policy of the German Government was not changed very much until after the war. The Administration did not enter into new contracts for the sale of land or for the granting of forestry or mining rights. Contracts already entered into by the German régime were carried out, unless there were administrative objections. Instead of selling land to persons wanting to buy it, year to year leases were given.[6]

By the New Guinea Act, 1920, the Commonwealth Parliament made provision for the acceptance of the mandate when issued to the Commonwealth.[7] The mandate text was defined by the Council of the League on December 17, 1920, and it was received by the Commonwealth Government early in April, 1921. Upon the basis of the mandate text and the New Guinea Act, the civil government of the territory was set up. The difficulty experienced by New Zealand in failing

[3]*Ibid.*, pp. 8–11.
[4]*Ibid.*, pp. 11–15.
[5]*Ibid.*, p. 17.
[6]*Ibid.*, p. 16.
[7]*The Commonwealth of Australia, No. 25 of 1920.*

to see its way clear to exercise power under the Samoan mandate without the authorization of the British Government was not felt to be present. The view of the Australian Government was that it could act with the direct authorization of the League of Nations, without any intermediation of the British Government.

Certain preliminaries to the establishment of civil government should be noted. Letters patent were issued on August 12, 1919, to a royal commission of three members, under the chairmanship of the Lieutenant-Governor of Papua, a territory controlled by the Commonwealth adjoining the mandated territory on the south, to report on certain conditions in the territory and to make recommendations concerning the future form of government for the territory, etc.[8]

The commission went to the territory and studied conditions, and under date of November 22, 1919, submitted an interim report; and shortly thereafter submitted a final report. In this latter report, a number of recommendations concerning the future government of the territory were agreed upon by the three commissioners, but there was a division of opinion between the chairman and the other two members on the most important points in the recommendations. The majority set forth very forcibly the necessity for the creation of a separate government for the territory, while the chairman, Judge Murray of Papua, believed that the territory could best be administered by an extension of the government of Papua to include it. The majority believed that an administrator should be the chief official in the territory, and that he should be entrusted with "extensive powers."[9] Under the proposal made by Judge Murray, the territory would have been placed under one executive with the territory of Papua, with deputies to represent him in the various parts of the two territories. The majority report recommended the creation of an Executive Council of the Administrator's senior officers to assist him; but that the Administrator should have power to override its disapproval of his action. Similarly, the minority report recommended the creation of an Executive and Legis-

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[8]*Interim and Final Reports of Royal Commission on late German New Guinea, Australian Parliamentary Papers, No. 29, 1920*, p. 4.

[9]*Ibid.*, pp. 5–8, 30.

lative Council for each territory. With a separate administrative system, there would naturally have to be a separate civil service, and this was recommended by both reports.[10]

On September 14, 1920, Prime Minister Hughes moved the second reading of the New Guinea Bill, which, in addition to providing for the acceptance of the mandate, made provision for the creation of the civil government and the execution of the obligations of the Covenant and the mandate text. In introducing the bill, the Prime Minister pointed out that it purported to establish an outline of the civil government and to put it in place of the military government. The time had come when military government "should be swept away."[11] This bill proposed to do that. He emphasized the fact that the Commonwealth had jurisdiction of a comprehensive character over the territory, although it did not have "sovereign power" over it. "Ours is a position of trust, and we are responsible to the League of Nations, or the Allied and Associated Powers who are signatories of the treaties."[12]

On the following day, September 15, debate on the bill was resumed, and a long discussion took place relative to certain items therein. The power of the Governor-General to make ordinances for the government of the territory, until such ordinances were disallowed by Parliament, was attacked by the opposition, as was the proposal to permit forced labor for essential public works and services. Some opposition was manifested to the provision allowing the military training of the natives for purposes of the local defense of the territory—it was contended that this provision opened the gate to conscription of as many natives as was deemed wise.[13] In committee, on September 16, the employment of forced labor in the territory was vigorously attacked, and an amendment prohibiting its use was adopted.[14] In this amended form the bill was enacted into law, under date of September 30.

The New Guinea Act drew heavily upon the recommendations of the royal commission in its specific provisions for

[10]*Ibid.*, pp. 30, 60, 73.

[11]*Commonwealth of Australia, Parliamentary Debates, First Session, 1920*, Nos. 38–39, p. 4,457.

[12]*Ibid.*, p. 4,453.

[13]*Ibid.*, pp. 4,532–4,586.

[14]*Ibid.*, p. 4,684.

the government of the mandated territory. Although it was the clear intention of the Act to provide merely a "skeleton" outline of the form of government, leaving the details to be filled in by subsequent executive action, most of the important features of the government of the territory were provided for therein.

The chief governmental official was to be an Administrator, appointed by the Governor-General under the seal of the Commonwealth, to hold office during the pleasure of the Governor-General. The Governor-General, it is of course realized, acts in such matters upon the recommendation of the executive of the Commonwealth Government. The powers of the Administrator were left to be defined by his Commission and by the instructions issued to him by the Governor-General. The Governor-General also might appoint, or delegate to the Minister administering the Act or to the Administrator power to appoint, "such officers as are necessary for the administration of this Act or for the proper government of the Territory."[15] Provisions were made for the exercise of the Administrator's powers and duties by a deputy or deputies in case of his absence, illness or other incapacity.[16] The Governor-General was authorized to empower the Administrator to "appoint any person, or any persons jointly or severally, to be the deputy or deputies of the Administrator within any part of the Territory, and in that capacity to exercise during the pleasure ofthe Administrator such powers and functions of the Administrator as he thinks fit to assign to such deputy or deputies subject to any limitations expressed or directions given by the Governor-General."[17] But such appointment of officers and assignment of functions could not affect the exercise or performance by the Administrator of any of his powers and functions.

The laws passed by the Australian Parliament were not to have the force of law in the territory unless such application was specifically provided for. The Governor-General was empowered to extend laws of the Commonwealth to the territory by ordinance; and to make other ordinances having the effect

[15]New Guinea Act, section 12; see footnote 7 for citation of the Act.
[16]*Ibid.*, section 9.
[17]*Ibid.*, section 10.

of law in the territory, until Parliament should make contrary provision. Such ordinances have to be notified in the *Gazette*, and to be laid before both Houses of Parliament within fourteen days after the succeeding meeting of Parliament, if Parliament is not in session. Either House may nullify ordinances by resolution within fifteen sitting days after it has received them.[18]

The guarantees of the Covenant were given effect to by the Act, as concerned New Guinea. The slave trade was prohibited; forced labor of any kind and for any purpose was prohibited, which goes further than the Covenant or the mandate text; the regulation of the traffic in arms and ammunition in accordance with the Brussels Convention of 1890 and conventions amending the same was provided for; the supply of intoxicating spirits and beverages to the natives was prohibited; the ambiguity of Article 22 of the Covenant as to what territory was meant in the prohibition of military training of the natives was cleared up as concerns New Guinea by the Act's prohibition of all military training except for police purposes and the local defense of the territory; the provisions relative to military and naval bases and fortifications were repeated; freedom of conscience was to be allowed under the conditions laid down in the Covenant. The Governor-General should make an annual report to the Council of the League of Nations "containing full information as to the measures taken to carry out the requirements" of the Covenant and to promote the well-being and progress of the inhabitants of the territory.[19]

The New Guinea Act thus gave the natives some safeguards that were not guaranteed to them by the Covenant; in fact, it gave them more in some respects than were given by the mandate text issued by the League Council on December 17, 1920. The mandate text followed the Covenant largely, but it contained minor variations, and these must be examined. The mandate text prohibited the slave trade; prohibited forced labor, except for public works and services, and then for adequate remuneration; prohibited the supply of intoxicating beverages to the natives; and provided for the control of the

[18]*Ibid.*, sections 13, 14. The fourteen-day period was extended to thirty by the New Guinea Act 1926, *Report for 1925–1926*, p. 7.

[19]*Ibid.*, section 16.

traffic in arms and ammunition "in accordance with principles analogous to those laid down in the convention" of September 10, 1919, or in any convention amending the same. Whereas the Covenant provides for the *prohibition* of the arms traffic, the mandate text provides merely for its *control* in accordance with certain principles, thus paralleling the New Guinea Act rather than strictly following the Covenant. The provision relative to the military training of the natives follows that of the New Guinea Act rather than that of the Covenant. Freedom of all forms of worship must be guaranteed, *subject to local regulations,* and freedom of missionaries of states members of the League is safeguarded. Annual reports must be made to the satisfaction of the Council of the League; no modification of the terms of the mandate is possible without the consent of the Council; and the mandatory must refer disputes with members of the League relative to the interpretation and application of the mandate to the Permanent Court if they fail of settlement by negotiation.[20]

On April 7, 1921, a proclamation was issued declaring that the New Guinea Act would come into force on May 9. On the latter date, a proclamation was issued at Rabaul, in the territory, terminating the military government, and establishing a civil government. It is to be noted that, although the Prime Minister had said in the Australian Parliament that the time had come for sweeping away the military government, such action was not taken until the receipt of the official text of the mandate from the League of Nations. In other words, the mandate, and not the Act of Parliament, gave the signal for the change from military to civil government. Contemporaneously with the proclamation of civil government, various ordinances were promulgated with a view to effecting the transition from the laws of the military régime and the previous German régime to the civil mandate administration. One of the most important of these ordinances was the Laws Repeal and Adopting Ordinance 1921. It provided that all German laws should cease to apply to the territory; but ample provision was made for the securing of rights under these laws. Instead of the German laws, various kinds of laws were put into force in the territory. "The principles and

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[20]For the mandate text, see *League of Nations Official Journal,* II, 85ff.

rules of common law and equity that for the time being are in force in England, shall so far as the same are applicable to the circumstances of the Territory," be the rules and principles of common law and equity for the time being in force in the territory. A number of Acts of the Commonwealth, Acts of the State of Queensland, and even some Acts of the British Parliament were introduced, under certain conditions. Some of the laws of Papua were given effect to in New Guinea. The tribal institutions, customs and usages of the aboriginal natives were not affected by the ordinance; they were permitted "to continue in existence in so far as the same are not repugnant to the general principles of humanity."[21]

On the day of the proclamation of civil government, the Military Administrator, Brigadier-General E. A. Wisdom, assumed the office of first Civil Administrator, "and the departments of the military government became departments of the civil administration."[22]

It has been indicated above that the principal executive, administrative, and legislative official in the mandated territory is the Administrator. The Parliament conspicuously omitted all reference in the New Guinea Act to any advisory executive or legislative council, even in the face of the recommendation for such a council made by both the majority and the minority of the royal commission sent to investigate New Guinea in 1919. In 1928, it appears, an Advisory Council of five members of the Administrator's highest official colleagues was created with power "to submit for consideration proposals for the making, amendment or repeal of ordinances."[23]

The courts remaining from the German and military governments were abolished by the Judiciary Ordinance 1921, and the judicial power of the territory was vested in a Central Court and District Courts. The Central Court was made a court of record, with wide civil and criminal jurisdiction; the judges have the same powers as the judges of the Supreme Court of Queensland. The District Courts, each of which is presided over by a district officer, were made courts of

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[21]*Report for 1914–1921*, pp. 66–70.

[22]*Ibid.*, p. 19.

[23]*Report for 1926–1927*, p. 7, and *P.M.C. Minutes of the Thirteenth Session (June, 1928)*, p. 19.

record, with limited civil and criminal jurisdiction. The Administrator has the power to remit or commute sentences.[24] Provision was made for Courts for Native Affairs in each administrative district of the territory, with jurisdiction over matters "between natives and over natives," by the Native Administration Ordinance 1921–1927.[25] Special Wardens' Courts have been created with jurisdiction over certain disputes relating to mining, under the Mining Ordinance 1922–1927.[26]. A system of appeals to the Central Court is naturally provided for.

Little special significance is attached to the administrative organization. At the time of the change to civil administration there were eleven departments. Shortly after the inauguration of the civil administration, the departments were reduced to seven by the abolition or rearrangement of various departments.[27] As they stood in 1927 they included the Departments of Government Secretary, of the Treasury, of Native Affairs, of Customs, of Lands, Surveys, Mines and Forests, of Agriculture, and of Public Health.[28] The ordinary work of administration is performed by these departments, under the supervision and control of the Administrator.

Public service regulations for the territory were laid down in the Public Service Ordinance, 1922. Only natural-born British subjects may be appointed to the classified public service, and preference is given to ex-soldiers. The Administrator, the judges of the Central Court, and other officials so designated by the Governor-General are not under the public service regulations. In 1927 the public service included 224 officers.[29]

The natives of the territory are allowed to participate to a certain extent in the administration of the government of the territory. *Luluais* (or kukurais) are nominated by the people of the villages and appointed by the Administrator to act as

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[24]*Report for 1914–1921*, p. 20; *Report for 1923–1924*, Appendix C, pp. 9, 11, 57–62; *Report for 1921–1922*, p. 49.

[25]*Report for 1921–1922*, p. 49; *Report for 1926–1927*, p. 18.

[26]*Report for 1922–1923*, Appendix D, pp. 15–18; *Report for 1926–1927*, p. 18.

[27]*Report for 1921–1922*, p. 41.

[28]*Report for 1926–1927*, p. 12.

[29]*Report for 1921–1922*, p. 44; *Report for 1926–1927*, pp. 12–15.

village councils, in every district of the territory, and to them are entrusted certain minor powers of local government. They act as representatives of the Administration in their villages, and are responsible "for the maintenance of good order and for the observance of all orders and regulations applicable to the natives." In some cases district councils of natives have been appointed from among the village councillors to assist in the work of government in a minor capacity. In some cases, village headmen seem to sit as a kind of court to hear minor native complaints. Use is also made of *tultuls*, or orderlies, as a means of communication between the administration and the *luluais*. Medical *tultuls* assist in the administration of public health.[30] So, it is clear that the natives have very little voice in the determination of policy, although a small part in its administration. They are not granted nearly as great advisory powers as the natives of Samoa have under New Zealand mandate, where the national native parliament, or body of *Faipules*, may advise on many legislative matters.

II. The Policies of the Administration

It has been observed above that the natives of New Guinea are fairly backward, with a rather low level of culture, due perhaps in part to the tropical conditions of heat and humidity, which encourage lethargy. New Guinea is not well-known to the world in general, and attention is not attracted to what happens there as much as it is to happenings in some other mandated territories, such as South-West Africa or Samoa. The mandatory power does not feel, therefore, as stinging an urge to apply to the full the humanitarian principles of the mandates system.

New Quinea has a number of non-natives who demand the application of principles different from those applied to the natives. This is particularly true of the Australian and British nationals who wish to participate in the economic exploitation of the territory. The presence of these people complicates the problem of government. Different rights and

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[30] *Report for 1922–1923*, p. 88; *Report for 1926–1927*, pp. 28–30; *P.M.C. Minutes of the Thirteenth Session (June, 1928)*, p. 23.

privileges have to be accorded them, and different rules have to be created and enforced for the regulation of their behavior. Particularly does their exploitation of the natives demand attention. The government of the natives in accordance with the principles of the "sacred trust" is made a more difficult task than it would be without the white exploiters.

Since the introduction of the mandate régime, the economic development of the territory has proceeded apace. The details of this development need not concern us here. Let it suffice here to say that the economic development has been primarily in the interests of the European population, and not in the interests of the natives. While it is no doubt very true that the natives have benefited indirectly by the economic development of the country, it has not been with that in view that such economic development has been undertaken and achieved. The natives have in some cases been positively harmed by the economic development, as is illustrated in the case of the labor situation. Where the native has been benefited, it has been as a means to the further benefit of the white man. Examples of this general principle will be dealt with below.

The government has done much for the encouragement of agriculture, both native and non-native, such as the control of pests and plant diseases, the introduction of new food plants, and the training of the people in better agricultural methods.[31] Roads have been constructed, and the means of transportation and communication generally improved. Many public works of various kinds have been constructed.[32].

The provisions of the Treaty of Versailles relative to ex-enemy property in former German oversea possessions allowed such property to be taken by the power administering each particular territory. In execution of these provisions of the Treaty, the Australian administration in New Guinea vested the property of the principal German companies and of large numbers of German planters in the Public Trustee, in September, 1920, and March, 1921, respectively. The management of these lands was entrusted to a body known as the Expro-

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[31]*Report for 1914–1921*, pp. 21–22; *Report for 1922–1923;* pp. 50–52; *Report for 1923–1924*, pp. 36–43; *Report for 1924–1925*, pp. 21–33; *Report for 1925–1926*, pp. 14–23; *Report for 1926–1927*, pp. 40–44.

[32]*Report for 1922–1923*, pp. 74–77.

priation Board. The legal title to the properties was later vested in the Custodian of Expropriated Properties, an official of the Commonwealth Government.[33] For a time after the inauguration of the mandate régime, the plantations were operated as a government enterprise, at a considerable loss, so it was decided to sell them. This policy was given effect to during 1925–1926, and by July, 1927, practically all of the ex-enemy properties had been sold. It was planned to settle accounts with Germany by placing this balance against reparations payments as soon as liquidation was completed.[34]

In connection with the purchasing of supplies for the Expropriation Board and the New Guinea Administration, an important question arose and caught the attention of the Permanent Mandates Commission. In April, 1921, a Trade Agency was established in Sydney by the Commonwealth Government to purchase supplies for the Board and the Administrations of New Guinea and of Nauru. The profit earned by the Agency "was paid to the revenue of the Commonwealth." The Permanent Mandates Commission criticized this situation, and expressed the opinion that it was improper for a mandatory power to make a profit out of the mandated area.[35]. An apparently adequate explanation has been made that the Agency gets its return on a commission basis, and that the profits were held in a trust fund for future distribution among the Administrations of New Guinea, Nauru, and the Expropriation Board.[36]

Certain nationalistic policies have been applied by the Commonwealth to the mandated territory. For a time only Australian ships were allowed to trade with New Guinea, but this policy seems to have been changed. It was at one time criticized in the Mandates Commission.[37] The Commonwealth has extended its white Australia policy to the territory. The immigration law in force in the territory is an extension of the

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[33] *Report for 1914–1921*, p. 17.

[34] *Report for 1924–1925*, pp. 45–46; *Report for 1925–1926*, pp. 14, 31; *Report for 1926–1927*, p. 92.

[35] *Report for 1921–1922*, p. 44; *P.M.C. Minutes of the Third Session (July–August, 1923)*, pp. 167–168.

[36] *Report for 1922–1923*, p. 79.

[37] *Report for 1924–1925*, p. 21; *P.M.C. Minutes of the Sixth Session*, p. 87.

immigration law of the Commonwealth. It represents a "well-established and settled policy of the Commonwealth Government" to keep Orientals out of the mandated territory. "The circumstances of the Territory and the interests of the native population do not at present call for any modification of that policy." It would in fact be "seriously prejudicial to their interests to subject them to the competition of coloured labourers of other races."[38] The territory has been a haven for a number of retired veterans, who are given preference in government service. The open door is naturally not present, for there is no obligation that it should be; but there is no preferential tariff.

The handling of the problems of the natives is perhaps the test that should be put to any mandate administration. It is particularly so in New Guinea, where there is such a strong clash of interests and where darkness is apt to veil important happenings. The native aspect of the problem of governing New Guinea may be considered under the subjects of native labor, the fulfillment of Covenant and mandate obligations, and native health and education policies.

One of the very greatest problems in New Guinea is the native labor problem. There is a demand for large numbers of cheap laborers for the plantations of the white men, and the natives are present in such numbers that it is possible to draw from them the needed labor. The whole government is supposed to be for the interests of the natives, and yet the economic development of the country demands that use be made of the large numbers of able-bodied natives who have not any very pressing occupations of their own. Yet, why should they work for the white men when nature is so bountiful in affording them sufficient food and clothing for their happy and peaceful existence? This is the question which the natives ask, and because of the answer which seems apparent to them they do not welcome the "recruiting" gangs which operate amongst them.

In the first report to the League on the administration of the territory, the Australian Government admitted that "recruiting has in the past been characterized by many abuses.

[38] *Report for 1922–1923*, p. 90; *P.M.C. Minutes of the Sixth Session*, p. 86.

The holders of licenses to recruit have been mainly Chinese, and many of them have been quite unscrupulous in their methods."[39] Forced labor had existed in the past, but it was abolished by the specific provisions of the New Guinea Act. Yet the number of laborers had to be kept as high as before, and it is difficult to see just how some of the abuses admitted to exist under the German régime could be removed and still the number of recruits increased. But our purpose here is to consider the facts as set forth in the official documents. If certain conclusions follow, it is best to let them follow the presentation of the facts.

If we examine the statistics on the native laborers under contract in the territory, we find that there were 14,990 in 1913, and 17,529 in 1914, the last two years that the territory was under German control.[40]. In May, 1921, the number had been increased to the very high figure of 27,728.[41] On June 30, 1922, the number stood at 26,619, a decrease of over one thousand.[42] On June 30, 1923, the number was 24,701, a still lower figure.[43] The number increased the following year, and stood at 25,164 on June 30, 1924.[44] During the next year a marked decrease is noted, owing largely to the re-organization of the native labor staffs of the Expropriation Board; the number on June 30, 1925, was 23,421.[45] A slight increase the next year brought the number to 23,569, as of June 30, 1926.[46] Another large increase brought the number to a figure higher than any other except that of 1921 by June 30, 1927, when it stood at 27,002.[47]

If we examine the figures on the recruiting of natives during the various years, we find that the annual demands upon the population were fairly heavy. During 1921–1922 some 11,171 laborers were recruited,[48] during 1922–1923 some 13,379,[49]

[39] *Report for 1914–1921*, p. 22.
[40] *Report for 1914–1921*, p. 74.
[41] *Report for 1921–1922*, p. 53.
[42] *Ibid.*
[43] *Report for 1922–1923*, p. 21.
[44] *Report for 1923–1924*, p. 18.
[45] *Report for 1924–1925*, p. 10.
[46] *Report for 1925–1926*, p. 10.
[47] *Report for 1926–1927*, p. 27.
[48] *Report for 1921–1922*, p. 53.
[49] *Report for 1922–1923*, p. 21.

during 1923–1924 some 11,722,[50] during 1924–1925 some 9,447,[51] during 1925–1926 some 10,448,[52] during 1926–1927 some 12,062.[53]. The number of laborers paid off usually ran considerably below the number recruited. The death rate among recruited laborers appears to be rather high. It stood at 29 per 1,000 in 1921–1922, 20.97 in 1922–1923, 18 in 1923–1924,[54] 31 in 1924–1925,[55] 22 in 1925–1926,[56] and nearly 22 in 1926–1927.[57] The high death rate, particularly when taken with the high rate of laborers who desert their work, seems to indicate the lack of proper care and treatment. The Administration seems to be puzzled about the matter, not knowing what the reason really is; but it has expressed the opinion that the dietary scale has something to do with the situation.[58]

The ordinances regulating the methods of recruiting and the conditions of employment of the laborers have been very numerous, and very lengthy and detailed. One of the early ordinances of a comprehensive character was the Native Labor (Consolidation) Ordinance 1920, prior to the establishment of the civil government. In this ordinance detailed provisions were made to safeguard the native in the process of recruiting and transportation to the place of his employment. Natives under twelve years of age, the representatives of the native administration, and others in certain classes might not be recruited. Married women might not be recruited unless they were to work in the same place with their husbands; unmarried women might not be recruited except for certain kinds of work, such as domestic work, and then under definite restrictions. Recruiters had to be licensed by the Administrator in order to carry on their work. Their licenses might be revoked upon the non-fulfillment of conditions contained therein. Detailed provisions were made for the man-

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[50] *Report for 1923–1924*, p. 18.
[51] *Report for 1924–1925*, p. 10.
[52] *Report for 1925–1926*, p. 10.
[53] *Report for 1926–1927*, p. 27.
[54] *Report for 1923–1924*, p. 19.
[55] *Report for 1924–1925*, p. 11.
[56] *Report for 1925–1926*, p. 11.
[57] *Report for 1926–1927*, p. 27.
[58] *Report for 1924–1925*, p. 11.

ner of the execution of the contracts with the natives, the certification of the health of the natives being among the preliminaries to the contracts. The legal period of the contract was defined as three years. The conditions under which the laborers were to live were set forth; the minimum wage per month was set at five shillings for males, and at four shillings for females and for boys under sixteen years of age. Disciplinary punishments might be given by the employers in cases not cognizable by the criminal law. These punishments might be in the nature of fines or of detention or confinement, either with or without chains. A heavy penalty was prescribed for anyone who flogged a native. District officers might nullify contracts for either side in certain cases. New contracts of service might be entered into at the expiry of the old ones.[59]

Improvements were introduced into the labor law of the territory by the Native Labour Ordinance 1922, by two ordinances in 1923, by two more in 1924, and by minor changes thereafter.[60] Special regulations have been made in connection with the employment of natives in mining, including a provision that labor contracts shall be only for two years; and three months must be spent at home by the native before he can be signed on for a second period of service.[61] Otherwise the conditions of labor remained in the main those established under the provisions of the 1920 ordinance summarized above.

The recruiting of laborers in some districts has been stopped because of the depletion of the number of able-bodied males. This fact would seem to indicate that detrimental effects are feared by the Administration if recruiting is allowed to proceed too long in a particular region,[62] despite the fact that the Administration has expressed the belief that the information is not adequate to permit of a reliable conclusion being reached as to the effects of the indenture system upon the numbers of the natives.[63] The bringing of new areas and new tribes under the effective control of the government has served as

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[59]See text of the ordinance, *Report for 1914–1921*, pp. 44–56.

[60]*Report for 1921–1922*, pp. 52–60; *Report for 1922–1923*, pp. 37–39, 59–60; *Report for 1923–1924*, Appendix C, pp. 4, 204–205; *Report for 1925–1926*, p. 11; *Report for 1926–1927*, pp. 22–23.

[61]*Report for 1925–1926*, p. 11.

[62]See texts of Orders in *Report for 1922–1923*, Appendix D, pp. 79–81.

[63]*Report for 1922–1923*, p. 88.

a means of replenishing the supply of able-bodied males capable of service, and has so far allowed the policy of closing certain areas to be executed without serious protest from the employers of native labor.

If the labor policy of the Commonwealth has not been as strictly in line with the spirit of the mandates system as has the labor policies of some other mandatories, it has been attributable in part no doubt to the special circumstances of the case and the desire to keep out members of the Asiatic races. Yet it is hard to escape the feeling that the recruiting system is perhaps not purely "voluntary" in the best sense of that word, that the penal sanctions for the violation of labor contracts are somewhat out of line with the best traditions of colonial administration, that the encouragement of a free labor system in theory and not in practice smacks somewhat of insincerity, and that the belief recently expressed by the International Labor Office member of the Permanent Mandates Commission that all is not well in New Guinea has perhaps a rather solid foundation.[64]

It appears that the mandatory has fulfilled its obligations in regard to the non-recruitment of natives for military service; in fact it has gone so far as to refrain from recruiting them even for the local police and defense allowed by the Covenant and the mandate. The arms and liquor traffic obligations have been fulfilled by drastic regulations, and in addition opium has been prohibited.[65]

The health policy of the Administration is an example of the tendency to look after the interests of Europeans more adequately than the interests of the natives. The development and well-being of the whites is considered by the Administration as a far more urgent and imperative duty than the development and well-being of the natives, as far as health measures are concerned. But the natives are being given an increasing amount of attention in health matters by the establishment of hospitals, the sending out of medical patrols among the natives and the administering of free medical treatment. The Chinese also have been given insufficient attention,

[64]*P.M.C. Minutes of the Thirteenth Session (June, 1928)*, pp. 29–31.

[65]*Report for 1914–1921*, pp. 20–21; *Report for 1922–1923*, p. 84.

and the Permanent Mandates Commission has found it necessary to criticize the policy concerning them.[66]

The work accomplished by the government in the field of native education has been almost insignificant. For a total native population of about 427,000, there is one elementary school with 108 pupils, and a technical school with 58 pupils, as of June 30, 1927. The total teaching staff of instructors and assistants reaches eleven, as of June 30, 1927. It should be kept in mind, however, that the mission schools are encouraged by the government, and that they have an attendance of 34,168 pupils, as of June 30, 1927.[67] A Native Education Trust Fund has been established, into which the income from a tax on employers of contract labor, and a tax on non-indentured in the years 1921–1922 and 1922–1923, is placed.[68] This fund was originally established for the purpose of educating the natives, but by regulations passed in 1924 it was provided that the money in the fund might be used for purposes other than native education, "but having for its object the direct benefit of natives."[69]

Much of the territory under mandate has not even been explored, and the part that is under government control or influence is only about a third of the total territory. In 1927 there were 20,714 square miles under complete government control, 6,723 square miles under government influence; 4,663 under partial government influence, and 1,169 square miles more were penetrated by patrols.[70] Out of a total area of 92,000 square miles, therefore, 58,731 square miles lie outside of the control or influence of the government. We believe this situation to be unique among mandated territories.

In the application of international conventions to the territory, no distinction has been made between Papua and New Guinea. Several international conventions have been applied to the territories, but the conventions recommended by the International Labor Conferences have not been applied, even

[66]*Report for 1922–1923*, p. 34, and various *Reports*, *passim; P.M.C. Minutes of the Sixth Session*, p. 91.

[67]*Report for 1926–1927*, pp. 36–40.

[68]Various *Reports*, *passim*, and *Report for 1926–1927*, p. 36.

[69]*Report for 1923–1924*, p. 254.

[70]*Report for 1926–1927*, p. 82.

though the Permanent Mandates Commission has expressed a wish that they should be.[71]

We can do no better in closing than to indicate that at the last meeting of the Permanent Mandates Commission a general tone of criticism of the mandate administration in New Guinea was very patent, taking point in particular requests concerning *inter alia* public finance, contract labor, education, public health, and the decrease of population. The Commission requested "more detailed information as to the action taken under" existing legislation, "all the more since information has reached the Commission which is of such a nature as specially to arouse certain apprehensions."[72]

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[71]*League of Nations, C.297.1926.VI.*, pp. 1–2, gives the reasons of the Australian Government for refusing to apply the labor conventions.

[72]*P.M.C. Minutes of the Thirteenth Session (June, 1928)*, p. 229.

INTERNATIONAL JURISDICTION AND DOMESTIC QUESTIONS

BY NORMAN L. HILL

University of Nebraska

The common practice of nations, in the past, has been to define the jurisdiction of international tribunals in such a way as to exclude matters of "vital interests and national honor." Even yet the phrase is in use in certain arbitration pacts that are in force.[1] More recently arbitration pacts and general arrangements for the maintenance of peace have frequently contained provisions exempting from international jurisdiction questions of domestic concern. It appears that the new expression "domestic questions" is replacing the old one and gives promise of a still more extensive use in the future.

One of the most widely known instances of the use of the new term is Article 15 of the Covenant of the League of Nations which provides that, "If the dispute between the parties is claimed by one of them, and is found by the Council to arise out of a matter which by international law is solely within the domestic jurisdiction of the party, the Council shall so report, and shall make no recommendation for its settlement." The Borah resolution for the outlawry of war, introduced in the Senate in December, 1922, provided that an international court be given "jurisdiction to hear and decide all purely international controversies."[2] In 1923 the United States concluded a multilateral treaty with France, Great Britain, and Japan dealing with the settlement of controversies that might arise in regard to their respective possessions

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[1]The phrase is used in the following bilateral treaties of the United States, now in force: Treaty with Ecuador (1919), 3 Malloy 2922; Treaty with England (1908), 1 Malloy 814; Treaty with Haiti (1909), 1 Malloy 945; Treaty with Honduras (1925), *Treaty Series*, 717; Treaty with Japan (1908), 1 Malloy 1040; *Treaty* with Liberia (1926) *Treaty Series*, 747; Treaty with Netherlands (1909), 2 Malloy 1277; Treaty with Norway (1908), 2 Malloy 1306; Treaty with Peru (1909), 2 Malloy 1251; Treaty with Portugal, 2 Malloy 1467; Treaty with Sweden (1925), *Treaty Series*, 708; Treaty with Uruguay (1913), 3 Malloy 3859.

[2]Senate Resolution No. 101, 67th Congress, 4th Session.

in the Pacific, in which a provision was made that domestic questions remain under national jurisdiction.[3]

The distinction between affairs of domestic concern and those that come under international jurisdiction cannot be sharply drawn. In the advisory opinion given by the Permanent Court of International Justice in 1923 relative to the French nationality decrees in Tunis and Morocco the Court said:

> The question whether a certain matter is or is not solely within the jurisdiction of a state is an essentially relative question; it depends upon the development of international relations. Thus, in the present state of international law, questions of nationality are, in the opinion of the Court, in principle within this reserved domain."[4]

One of the reservations proposed in the Senate of the United States to the Treaty of Versailles contained an interesting attempt to give a partial description of the nature of domestic questions.[5] It reads as follows: "The United States reserves to itself exclusively the right to decide what questions are within its domestice jurisdiction and declares that all domestic and political questions relating wholly or in part to its internal affairs, including immigration, labor, coastwise traffic, the tariff, commerce, the suppression of traffic in women and children and in opium and other dangerous drugs, and all other domestic questions are solely within the jurisdiction of the United States, and are not under the treaty to be submitted in any way either to arbitration or to the consideration of the Council or of the Assembly of the League of Nations, or any agency thereof, or to the consideration or recommendation of any other power."

While there is no consensus of opinion as to the precise meaning of the term "domestic questions," there are one or two relevant principles which would be widely admitted. It is clear that a dispute involving either international law or a treaty is a matter of international jurisdiction. It is on this

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[3]*Treaty Series*, 669 and 670.

[4]The World Court (Yearbook), *World Peace Foundation Pamphlets*, Vol. XI, No. 1 (1928), pp. 55–56.

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account that the movement for the compulsory submission of disputes to established tribunals has centered so largely about the so-called justiciable question. Article 38 of the Hague Convention for the Pacific Settlement of International Disputes signed in 1907 recognized the competency of international courts to deal with justiciable questions in the following statement:

> In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the contracting powers as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle.[6]

The submission of such a dispute to the Hague Court, however, was placed by the convention upon a purely optional basis.[7] Similarly the statute of the Permanent Court of International Justice described the jurisdiction of that tribunal as embracing "legal disputes," which in Article 36 were divided into four classes.

Whether a dispute between two nations does or does not involve questions of law may itself be the cause for difference of opinion. The history of expatriation indicates very well how a right may be both asserted and denied under international law. Though the American courts before 1868 enforced the common law doctrine of indelible allegiance, the executive department had on several occasions maintained that an individual has a natural right of expatriation which is guaranteed.[8] As Secretary of State, Mr. Buchanan consistently regarded expatriation as the right of every individual and undertook to afford equal protection abroad to native-born and naturalized citizens.[9] By the act of 1868 Congress terminated the controversy so far as American practice alone was concerned by affirming that the "right of expatriation" was an

[6]*The Hague Conventions and Declarations of 1899 and 1907.* J. B. Scott, ed. (Carnegie Endowment for International Peace), p. 55.

[7]*Ibid.*, p. 57–58.

[8]For judicial enforcement of the common law doctrine see: *Caignet vs. Pettit*, 2 Dallas 234 (1795) and *Williams Case*, (1799), *Scott, Cases*, 134, 138.

[9]Moore, J. B., *Digest of International Law*, Vol. III, pp. 566–567.

"inherent right of all people."[10] It was several years before the policies of any considerable number of other nations were made to conform to the American.[11]

The Permanent Court of International Justice has attempted in several instances to determine whether or not an existing dispute involved legal issues, and therefore should be regarded, under Article 15 of the Covenant, as a matter of international jurisdiction. In the Eastern Carelian affair between Finland and Russia, which was before the attention of the Council of the League of Nations periodically from November, 1921, to April, 1923, it was alleged by Finland that there had been a violation of the treaty of Dorpat.[12] Finally, the Council asked the Permanent Court of International Justice for an advisory opinion as to whether the issue was to be classed as international on account of the violation of a treaty. The court concluded that it was not competent to express an opinion on the question that was submitted. It found that there there were certain points of fact that would be required and that they could not be obtained so long as Russia continued to hold aloof.

In the Franco-British dispute in regard to the nationality decrees of France in Tunis, the Permanent Court of International Justice was again asked to determine the existence or non-existence of an international controversy.[13] England claimed that the decrees of the French Government issued on November 8, 1921, relative to citizenship in Tunis contravened the terms of a treaty to which she was a party and that therefore the altercation was of an international character. On February 7, 1923, the Court announced that, without touching upon the substance of the dispute, it was of the opinion that the question was not a matter of purely domestic jurisdiction. The affair was later adjusted in a treaty between the two powers.

The Aaland Islands dispute between Sweden and Finland, which was placed before the Council on July 9, 1920, was

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[11]*Ibid.*, pp. 586–711 for the laws of expatriation of other states.

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alleged by Sweden to be of an international character.[14] Finland, on the contrary, claimed that it "was an internal question relative to the protection of ethnical minorities." In view of the fact that the Permanent Court of International Justice had not yet been established a special commission of jurists was created to determine the nature of the jurisdiction which should be allowed. In the report of the commission the point was brought out that ordinarily such an issue would have a domestic character for, "positive international law does not recognize the right of national groups as such to separate themselves from the state of which they form a part by the simple expression of a wish." In this particular case, however, it was found that, by reason of the disturbed condition of the islands in 1917–1918 when Finland was emerging as an independent state, their status must be regarded as having been left unsettled by the Paris Conference. Consequently, Finland could show no valid title to them and the issue was not domestic. Ultimately the matter was settled by a treaty which came into force in April, 1922.

While a dispute of a justiciable character is generally deemed to be a matter of international jurisdiction, an exception has been claimed in the case of differences that arise between a dependency and the mother country. The issue developed at the Paris Peace Conference, where Egypt, India, Korea, and Ireland asked to have their separate problems considered.[15] The ruling of the conference that the status of such dependencies should not be discussed conforms to the opinion of the committee of jurists in the Aaland Islands case, in which such controversies were referred to as "questions which international law leaves entirely to domestic jurisdiction."[16] The query has been raised as to whether the jurisdiction of the League of Nations and the Permanent Court of International Justice might be extended to disputes between England and her dominions. Australia, Canada, South Africa, New Zealand, India, and the Irish Free State are all members of both organizations. Article 12 of the Covenant provides that, "The members of the League agree that if there should arise

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[14] *Ibid.*, pp. 7–23.

[15] See Scott, A. P., *An Introduction to the Peace Treaties* (1920), p. 61.

[16] *Political Activities of the League of Nations.* Information Section, Secretariat of the League of Nations (1925), p. 15.

between them any dispute likely to lead to a rupture they will submit the matter either to arbitration or judicial settlement or to inquiry by the Council. . . ." Article 34 of the Statute of the Permanent Court describes the competence of the court as extending to cases between "states or members of the League of Nations." These provisions have never been applied to disputes within the British Empire, and some doubt has been expressed as to whether it would be possible to do so. Judge de Bustamante makes the following statement in regard to the matter:

> If some convention or national law were passed tomorrow that extended the court's jurisdiction to that extent, the colonies and dominions in the League of Nations might plead before the court against the mother country, or vice versa. Perhaps that would be possible even now, under certain stipulations of the Treaty of Versailles and subsequent conventions closely connected with the treaty.[17]

It is a significant fact that, as the cases of the World Court indicate, the issue of whether a given dispute is of purely domestic concern is itself regarded as a question of an international nature. The determination of jurisdiction is a judicial function, involving rules of international law or the construction of treaties. In a well-developed system of international organization it might be required that all justiciable disputes between nations, including matters of jurisdiction, be settled by international tribunals. It is probable that the result of such an arrangement would be the gradual extension of the field of international control. The history of the United States Supreme Court illustrates the tendency of a court to enlarge upon its jurisdiction.

The extension of the area of international jurisdiction is also being accomplished by the persistent expansion of the treaty system. Immigration, armament-building, the treatment of minorities, and many other activities have been made the subjects of an increasing number of agreements between

[17] De Bustamente, A. S., *The World Court* (1925), p. 197.

states.[18] It is impossible to foretell the extent to which the field of international jurisdiction will be enlarged by treaties of this nature.

From a strictly legal point of view domestic questions would be regarded as those for which there is no applicable international law or treaty. In matters of this nature the controlling consideration is the fact of state sovereignty, in so far as states have not impaired their freedom of action by the acceptance of self-imposed limitations they are presumed to continue their jurisdiction. To this extent at least there is an analogy between the powers of the states of the United States in constitutional law and those of independent nations in international law.

Unfortunately it has frequently happened that important disputes between nations have related to matters which, by international law, are considered to be exclusively under national control. The American immigration law of 1924 enacted a domestic policy which our Government was free to pursue, but it cannot be denied that in application it has affected the interests of other states.[19] In the absence of treaties to the contrary every nation is free to make whatever regulations it chooses in regard to citizenship, a right which may be exercised in such a manner as to involve the welfare of other nations appreciably.[20] Similarly, unless a state has

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[18]See Potter, P. B., "The Expansion of International Jurisdiction," "*Political Science Quarterly*," Vol. XLI, No. 4 (December, 1926), p. 559, for the following figures in regard to treaties relative to migration:

	Bilateral	Per Annum	Multilateral	Per Annum
1780–1789	1	.1	0	0
1790–1799	0	0	0	0
1800–1809	0	0	0	0
1810–1819	3	.3	4	.4
1820–1829	3	.3	1	.1
1830–1839	2	.2	0	0
1840–1849	2	.2	1	.1
1850–1859	0	0	1	.1
1860–1869	9	.9	0	0
1870–1879	14	1.4	0	0
1880–1889	24	2.4	1	.1
1890–1899	15	1.5	1	.1
1900–1909	37	3.7	6	.6
1910–1919	22	2.2	5	.5
1920–1921	12	6.0	6	3.0

[19]See *Chae Chan Ping vs. U. S. 130,* U. S. 581 (1889) regarding the right to exclude aliens.

[20]See Hershey, A. S., *Essentials of International Public Law and Organization* (1927), p. 347.

limited its freedom of action voluntarily by a treaty, it may construct a navy or train an army whose proportions will be a matter of vital concern to all other independent states.

Most important among the subjects of domestic control that have caused disputes between nations are those which relate to the formation of foreign policies. It is quite possible for two states to pursue conflicting policies which may bring them to an open rupture while neither is acting in violation of any international law or obligation. The reparations issue has brought about differences of opinion that have involved both matters of law and questions of policy between England and France, two of the most vitally interested nations. There was a period of open disagreement between France and Great Britain over the policy which should be applied to the German debt, which was not terminated until the acceptance of the Dawes plan.[21] England was interested in the industrial restoration of Germany for the sake of her markets of trade; France emphasized her need of security and held that a strong economic régime maintained by her neighbor to the north might be a step toward political and military recuperation. Both France and Great Britain were pursuing the foreign policies which they considered best suited to their interests and there was no law that denied to them that right.

Similarly, the payment of the war debts by European states to the United States involves both legal and political issues.[22] From the legal point of view an obligation may be found to exist. But European debtors have frequently raised the query as to whether we should demand full payment. More specifically, in the debt funding negotiations with France that nation took the point of view consistently that her payment to us should be conditioned upon the payment by Germany of the reparation account.

In the scramble for special concessions that has characterized modern international relations many disputes have been engendered which were either entirely or partially of a political nature. There was no denial of the right of German interests to obtain concessions and to build the Bagdad Railway in Turkish territory, but that much friction and suspicion were aroused thereby among competing European states has

[21]Gibbons, H. A., *Introduction to World Politics* (1923), pp. 556–559.

[22]See *International Conciliation* No. 230, "The Interallied Debts."

been acknowledged generally. Such incidents as the French boycott of bonds to finance the railway and the British acquisition of Koweit were evidences of the prevalent opposition.[23] The scheme not only conflicted with similar projects sponsored by other nations, but also seemed to endanger British political interests in the Near and Far East.

The provision of an adequate method of international treatment for disputes that are primarily domestic in character is one of the main problems of international organization. To coerce the parties into an acceptance of international jurisdiction would be regarded as unjustifiable intervention.[24] It has been found possible, however, to encourage recourse to certain nonjudicial processes of international settlement. On several occasions international conferences have been convoked, in which attempts have been made to conciliate divergent interests. Fourteen states met at Berlin in 1884–1885 for the purpose of removing several causes of discord which had developed among European states relative to the exploitation of African territory.[25] It resulted in four declarations and two *acts*.[26] The effect of such a procedure is to transform a clash of foreign policies, in which each party to the dispute is pursuing its own course as a sovereign right, into an international question under the regulation of a treaty. Similarly, the Conference at Algeciras in 1906 attempted to reconcile existing differences between France and Germany in regard to the status of Morocco.[27] Conferences of this character may have their origin in the good offices of a disinterested power. The Algeciras Conference of 1906 was suggested by President Roosevelt.[28]

By Article 15 of the Covenant of the League of Nations the Council is granted jurisdiction over disputes between member

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[23] Moon, P. T., *Imperialism and World Politics* (1925), pp. 244–250.

[24] Intervention is defined by Mr. W. E. Hall as interference "in the relations of two other states without the consent of both or either of them, or interference in the domestic affairs of another state irrespective of the will of the latter for the purpose of either maintaining or altering the actual condition of things within it." See Hall, W. E., *International Law*, 5th edition, 284.

[25] Satow, Sir E., *Congresses and Conferences* (1919), pp. 45–48.

[26] *Ibid.*, 92–93.

[27] *Ibid.*, 48–50.

[28] Moon, P. T., *op. cit.* 204–206.

states which are "not submitted to arbitration or judicial settlement in accordance with Article 13." It is intended by this provision that the Council shall deal primarily with non-justiciable disputes. The method of treatment which the Council uses is based upon the principle of conciliation.[29] There have been a large number of disputes which have come before the attention of the Council.[30] In some instances, where legal issues have been involved as well as political, advisory opinions from the Permanent Court of International Justice have been sought.

The Security Pact, which was formed at Locarno in 1925, asserts that all forms of disputes shall be settled peaceably and adds the following stipulations:

> Any question with regard to which the parties are in conflict as to their respective rights shall be submitted to judicial decision, and the parties undertake to comply with such decision. All other questions shall be submitted to a conciliation commission. If the proposals of this commission are not accepted by the parties, the question shall be brought before the Council of the League of Nations, which shall deal with it in accordance with Article 15 of the Covenant of the League.[31]

Provisions of such a nature indicate a wide acceptance of the theory that international disputes involving non-legal issues should receive a different treatment from those which are justiciable.

From the foregoing discussion it appears that the use of the term "domestic questions" in arbitral agreements should produce several beneficial results. Certainly it is more definite than the old phrase "vital interests and national honor," and therefore less open to abuse. Most important of all, however, is the fact that it is well designed to permit a gradual enlargement of the field of international jurisdiction. Not only is it susceptible of judicial application on the part of international

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[29]*Seventh Yearbook of the League of Nations.* World Peace Foundation Pamphlets, Vol. X, No. 2–3, pp. 201–202.

[30]For a discussion of such disputes see *Political Activities of the League of Nations*, Information Section, Secretariat (1925). See also *Yearbook of the League* (1928), published by the World Peace Foundation.

[31]Text of the Treaty. *Current History*, Dec., 1925, p. 324, article 3.

courts which may be expected to interpret it broadly, but is flexible enough to permit a constant transfer by treaties of more and more subjects from the realm of national control to that of international. Its use, coupled with the efforts that are being made to provide non-judicial processes for disputes which arise from subjects of purely domestic control, should be regarded as a progressive step in the development of international organization.

THE SOUTHWEST: A LABORATORY FOR SOCIAL RESEARCH

BY JENNINGS J. RHYNE AND CLYDE RUSSELL RHYNE

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The Southwest as a laboratory for social research offers opportunities unique in scope, peculiarly regional, and striking in social significance. Its history, the racial composition of its population, the development of its natural resources, and the opportunity it offers as a virgin field,—all contribute to its fascination to one who is endeavoring to make a scientific contribution. There are certain very important fields for social research which are almost universal in their application and which could be conducted in any locality. Though regional differences would show varying trends and characteristics, the study of such phases of social research as crime, poverty, child welfare, marriage and divorce, or old age relief would be of approximately equal significance from the different sections of the country. In all probability a study of crime in the New England States, though presenting conditions peculiar to New England and indicating characteristics different from those of other sections of the country, would not be of greater social significance than a study of crime in the southwestern group of states. Furthermore, a study of racial intermingling and conflicts of cultures between the immigrant peoples and the native born would present a situation of great social significance comparable to a study of the racial groupings and diffusion of cultures of the races and peoples to be found in the Southwest. On the other hand, there are certain specific and definite studies which must be pursued in the region in which they are found. It would avail little to make a study of the conflict between Indian and white cultures in New England or the economic conditions peculiar to a sudden opening up of a large oil field. On the other hand, it would be of little use for one in the Southwest to study the assimilation of the foreign worker into the textile industry or the social conditions attendant upon the herding of great numbers into crowded tenement districts of a large city. This paper, then, is purposed to indicate only a few and the most outstanding of the

phases of social research which are peculiar to the Southwest and which, if pursued, must be pursued in the southwestern states.

In thinking of the various phases of social research to be conducted in the Southwest, the first which comes to mind is that of race and racial interrelationships. The Southwest has truly been a meeting ground of diverse races and a melting pot of varied cultures, traditions, and lore. Texas had its early Spanish influence which left its impress upon the people; it is still being impressed with the influx of a Mexican population, and it has its Negro and its North European peoples which for want of a better term, we designate as native-born Americans. The social and economic relationships existing between these peoples and the blending of cultures and cultural traits present an opportunity for significant social discoveries. Oklahoma, first set aside as the home of the Indian, later invaded by the white man and opened to white settlement by a series of "runs," inhabited by the Negro freedmen of the Indians and Negro homesteaders and migrants, and now beginning to feel the effects of an increased Mexican migration, has had a history of racial intermingling and racial readjustments all its own. Louisiana with its early French influence as well as Spanish, the presence of the Creole population, and the large Negro element make of the state a field in which a study of race relations would be of social significance. Leaving aside the early Spanish influence in New Mexico and Arizona, these states today offer the richest field for research in Indian cultures. Indian cultures in the least adulterated form perhaps may be found among the more primitive Indians in these two states. For the anthropologist, interested in Indian culture, therefore, New Mexico and Arizona hold out a beckoning hand. Probably the Indians of Oklahoma are of more interest to the sociologist than those of the two states mentioned. The anthropologist has long been concerned with the processes involved in the formation of primitive cultures. He has studied the cultural osmosis continually going on between different tribes, the borrowing of cultural traits and the diffusion of cultures. The task of analyzing the cultural processes now going on between the Indian and white civilization devolves upon the sociologist who is concerned to a greater extent than the anthropologist with

present-day phenomena and the underlying processes. It is for this reason that the Indians of Oklahoma offer the greater opportunity to the sociologist. Though there are no Indians in the United States today who have not been influenced by white civilization and though there are in existence no pure Indian cultures untouched by the white man, nevertheless, the more primitive Indians of New Mexico and Arizona are as yet so little touched by white civilization that they are still of greater interest to the anthropologist than to the sociologist. The Indians of Oklahoma, on the other hand, present a picture of cultural evolution and change varying from those who have only begun to take on some of the culture of the whites to those who have been practically assimilated into American culture. A study of Indian cultures in Oklahoma presents a panoramic view of cultural evolution going on under our very eyes. The more primitive Indians of southwestern Oklahoma have only begun to adopt some of the ways of the whites but for the most part retain their own habits and customs. On the other hand, the members of the so-called Five Civilized Tribes of eastern Oklahoma have largely taken over the white culture as their own and many of the members of these tribes are practically assimilated into white culture. A study of the degree of assimilation of various tribes in different cultural stages would be a significant contribution not only as a body of knowledge relating to the Indian of today but as a contribution to an understanding of the characteristics and distinguishing features of the various stages in the process of cultural assimilation. A recent study of the Big Jim Band of the Shawnee Indians of Cleveland County, Oklahoma, has revealed some very significant indices of conflicts of cultures and of cultural borrowings and acculturation processes. Probably the most outstanding trait of their culture today is its duplex nature. This group of Indians has not so much adopted the white culture as they have annexed the white culture to their own so that the two cultures are existing side by side. This characteristic may be observed in their use of languages, in their homes, in their wearing apparel, in their cooking and eating habits, in the management of their children, in cases of illness, in courtship and marriage customs and other social relationships. When speaking to the white man the English language is used but the Shawnee language is always used

when the Indians are speaking to each other. During a visit to an Indian home by a white man, the Indians will speak to the white man in English, but if a mother wishes to say anything to a child or if one child wishes to speak to another, the Shawnee language is always used. The Shawnee language is also used on the school playground by the Indian children when talking to each other.

Though most of these Indians now have small but well-built frame cottages constructed by Government contract, the *wickiup* and the little sod hut still remain on the premises and are used for many purposes. The old people frequently have refused to move to the new house and remain in the hut because "Houses not made for Indians to live in," while the younger ones occupy the new house. Much of the cooking is still done in the open in a huge black iron kettle, although all the new houses are equipped with cooking stoves.

In matters of dress, both the white and Indian style may be observed, especially among the women. For every-day wear, the dress of the whites is often adopted, but for dress-up occasions, the blanket or shawl is brought forth. The very wide and long skirt gathered full at the waist line over which is worn a waist and sweater is a typical dress of the Shawnee woman. None of the women have been observed to wear hats. The middle-aged and old women wear a black or bright-colored cloth tied around the head and the young girls go bareheaded.

Though the custom is still preserved of waiting ten days after birth before giving a child a name, now he is given not only an Indian name but an English name as well. Thus, all the Indian children have two names.

The Shawnee Indians have not yet become quite reconciled to relinquishing the care of their sick to the white physician. Though he is sometimes called in, the visit is usually, if not always, followed by treatment by the Indian medicine man. One woman who had had both the white and Indian doctors with her sick baby remarked that "Indian medicine is the only thing that has done it any good."

From the standpoint of cultural assimilation their courtship and marriage customs are of particular significance. An Indian boy and girl will not go to any public gathering together, nor will they sit beside each other in a car before marriage. An Indian boy will go with a white girl to a public

gathering or an Indian girl with a white boy, but never an Indian girl and an Indian boy. The original Indian marriage relationship corresponded to our so-called common law marriage arrangement. Most of the old people are married in the Indian way only, but the younger couples are coming more and more to be married according to white law, although the Indian way of marrying usually precedes the white ceremony and often weeks or even several years elapse before the white ceremony takes place.

Probably upon no phase of Indian culture is the influence of the white man's civilization felt to as little extent as upon his religion. None of the Shawnee Indians attend the mission church maintained in the community. It will displease their God, they believe, to pay homage to the white man's God. To them God is a woman, a grandmother, who often appears in various forms, as a tree, rock, grass or other object of nature. One old Indian said that she had often seen the Indian's God, that she saw her the night before in the moon, that she was an old woman with a sack into which she would put all her Indian children when they died. The peyote meetings held at frequent intervals are essentially religious gatherings as well as the annual dances. A characteristic attitude of the Indian toward religion is expressed in the words of the acting chief at a Christmas tree festival put on by the minister at the mission. He opened his address to the audience in the following words: "So long as grass grows, and water runs down hill; so long Indian be friend to white man, but no mix religion."

These few examples have been given as demonstrative of this duplexity in Indian culture of the stage at which the Big Jim Band of the Shawnee Indians are at the present day. While there are other characteristics of equal importance in the study of the assimilation process, this one has been used specifically for illustrative purposes. Though some of these Indians have gone further in the adoption of white culture than others and though there is to be found a wide variance in the living habits and conduct in the extremes to be found in the group, nevertheless, there is to be found a cultural norm which can be considered as characteristic of the group. When this norm is discovered for other tribes in various stages of assimilation and when the distinguishing marks of their particular

cultural stages are determined, it should be possible to set up a common denominator of assimilation processes. The Southwest, furthermore, is the logical place where such a contribution should be made.

Another racial group in the Southwest which is now claiming national attention is the Mexican. The immigration problem is coming more and more to assume importance as a social problem in the Southwest, and especially in Texas, due to the increasing Mexican migration. Here again is the opportunity for studying conflict of cultures, although of a wholly different sort from that which has been discussed. The Mexican with a different language, a different social heritage, different social values and attitudes, and from a different economic organization comes in to be absorbed into the white population. A study of his social and economic background, of his social adjustment in this country, his home conditions and living quarters, his relations with his employer, and the Mexican tenant farmer situation are all-important in an understanding of the Mexican immigrant. Furthermore, the large numbers of Mexicans entering this country year by year make such a study of increasing importance. Though Texas is the state which is primarily concerned with the Mexican migration, other states of the Southwest are now beginning to feel its effect.

A study of the Negro in the Southwest also might offer some significant outcomes different from those of other states. Especially is this true of Oklahoma where the Negro has had a history of peculiar significance. He was first brought into Oklahoma as a slave to the Indian and later by the treaties of 1866 he was ostensibly received into the Indian tribes with equal tribal rights and equal shares in their lands. This is the early background of a part of the Negroes; another part participated in the early "runs" for settlement and secured homesteads which in many cases are yet retained by the same families; and the rest came as migrants to this state just as the Negro has migrated from one state to another all over the country. Furthermore, Oklahoma is a buffer state in which not only are there Negroes from both North and South but there are to be found two approximately numerically equal groups of the white population with opposing views on the Negro situation. In considering the Negro in Oklahoma his

relations with the Indians and their respective attitudes toward each other must be determined as well as his relations with the white population.

A peculiar phenomenon which has developed in this state to a greater extent than in other states and sections of the country is the independent or separate Negro town. Though it is fairly common throughout the country to observe segregated districts of cities or towns set aside as the "Negro section," yet the separate Negro town is comparatively rare. Here the Negro sets up his own municipal government, controls his own school policies, has his own community center and recreation facilities, conducts his own economic organization and in truth makes of the town one of Negroes, by Negroes and for Negroes. There are several such towns in Oklahoma. Boley, Langston, Taft, Red Bird, Tatum and Lima are the largest. There would be clearly defined advantages in studying the social, economic and governmental organization of such communities which the Negroes have set up according to their own pattern.

These racial groups, offering a fertile field for study and social discovery, have been mentioned only in a general way. There are myriad subdivisions and points of view from which to study these groups, varying with the particular interest of the investigator and the point of view from which the approach is made.

Another important phase of social study is that surrounding the oil industry. Oklahoma, Texas and Louisiana are great oil producing states and here may be observed the social phenomena so often associated with the oil boom. Word goes out that a large oil field has been opened up. There is a great rush of people, second only to the so-called "gold rushes," and towns spring up as if by magic. Temporary shelters are thrown up to house the itinerant, shifting population. At the peak of production the "boom town" also reaches the peak of its expansion. Then with the passing of the oil the town may or may not survive, depending upon the number of permanent residents it has attracted. Those who "follow the oil" move on to the next boom town where the process is repeated all over again. A thorough study of the population of an oil boom town and of the various social problems created through the development of the industry should reveal significant facts

concerning this element of the industrial population. This represents only one of the important economic situations for study in the Southwest. Another study of great significance, though not exclusively a southwestern problem, would be an analysis of the populations in the various mining communities which are scattered throughout the Southwest.

Before leaving the discussion of problems for study which are essentially southwestern, mention must be made of the opportunity offered to the rural sociologist. The Southwest is not only essentially rural but it has been, and to an extent is yet, the home of the ranching industry and farming on a large scale. Though the Mountain States and the West North Central States have a slightly larger number of farms in the 1,000 acres and over group of farms as designated in the census for 1920, yet the average size of farms in this group is much greater for the southwestern states than for the other two sections. The average size of farms in the 1,000 acres and over group is 2,129 acres for the West North Central States, 3,860 acres for the Mountain States, and 5,177 acres for the West South Central States.[1] With the present trend toward urban population increases and rural depletion, especially in the East and Northeast, the Southwest offers ample opportunities to study communities which are still essentially rural and little affected by the trend to the cities.

While probably an undue emphasis has been placed upon race and race relationships in this discussion of problems for social research in the Southwest, it is a problem which by its very nature enters into all others. It is a basic consideration and influences every phase of human relationship. If our interest is economic, we must consider the racial elements of the population as primary factors in our economic organization. The racial make-up of the population has a very potent influence upon wages, standards of living, the relation between production and consumption, and social and economic gradations of the population. If our interest is governmental, the racial composition of the population again figures largely.

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[1]We have been considering New Mexico and Arizona as southwestern states, whereas they are considered Mountain States by the census. To include them in the calculations increases the average size of farms in the 1,000 acres and over group to 5,509 acres for the southwestern states.

The political history of the southern states stands today as *prima facie* evidence of the farreaching influence which a racial element of the population may exert upon the political policies of the state. In the study of government in relation to the people it is important to determine the extent of participation of each racial group in governmental matters, to determine the services which the government is giving in return and to learn of the potentialities among the individuals of the various races and the qualities and abilities which they may have to offer. The latter would constitute a study of political leadership among the different races and would contribute to an understanding of our governmental organization through a study of the leaders who are ordering, either directly or indirectly, our governmental policies.

With such an abundance of materials of a sociological, economic, and governmental nature to be found in the Southwest and with new problems arising year by year and old ones increasing, it is little to be feared that there will ever come a time in the lives of any who are now living when materials for social research will be exhausted. In fact, the section is today almost untouched as far as sociological discoveries are concerned. However, as the attention of research workers is coming more and more to be directed to the Southwest and as those in the Southwest are coming to a fuller realization of the opportunities which are theirs, it is to be hoped that this section will yield an abundant harvest from the fertile research field which it offers.

ECONOMIC FORCES IN THE EVOLUTION OF CIVIL AND CANON LAW

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It is recognized that economic forces have been of fundamental importance in shaping the development of Civil Law. Much has been written of the effect which Canon Law has had on the development of capitalism. But it is not so generally recognized that Canon Law has, itself, felt the pressure of economic forces and has undergone changes in order to adapt itself to new economic environment.

It is naturally more difficult to imagine Canon Law affected by economic causation than to conceive of Civil Law influenced by the same forces. For Canon Law is, of course, essentially of a religious nature, founded upon a supernatural concept of the absolutivity of right and wrong. Civil Justice may, tacitly at least, consider expediency, but right and wrong from a religious point of view are not dependent either upon circumstances, or even up logic, but upon Divine Law, the crystallized Will of the Deity.

Nevertheless the evolution of both Civil and Canon Law in capitalistic times offers evidence that in spite of superficial differences, Canon Law has finally bowed to the pressure of economic change just as has Civil Law. Whenever an economic institution has given evidence of dynamic development, the attempt of Law to prevent this development may effect and shape somewhat the evolution of the institution, but the inevitable consequence has been that the Law, whether Canon or Civil, has been finally forced to permit the development. The final stage in evolution comes when, in order to meet the new situation, Law itself is changed, either by legislative enactment or judicial decision.

Examples of the similarity with which Canon Law and Civil Law react to economic stimuli can be found in the development of two legal concepts which are far apart in point of time and in technique of adaptation, yet present the same picture of the evolution of legal doctrine determined by economic forces.

As an example of the adaptation of Civil Law to the growth of capitalism, the evolution of the concept of Property in the Common Law of the United States may be taken. An example of a parallel nature in the adaptation of Canon Law to the requirements of a capitalistic economy may be found in the development of the concept of Usury.

The evolution of the concept of Property in the United States since the middle of the nineteenth century is familiar to all students of Constitutional Law. In the first Slaughter-house Case (1872)[1] we find that the right to engage in an occupation is not a property right,—or more concisely such a right is not Property. In the second Slaughterhouse Case (1884)[2] we find that such a right has come to be considered Property. In the time which intervened between the two cases it had become evident that a concept of Property which would include the right to engage in an occupation or business was essential to the development of a highly capitalistic society. In the Munn Case (1873)[3] the Supreme Court held that the regulation of income did not interfere with ownership, since Property did not consist in the right to income, but lay in the actual tangible property only. In the Minnesota Rate Case (1890), on the contrary, the courts later decided that the right to receive income is the very essence of Property. It had become evident by this time that in a capitalistic society the real value of property lay not in its use but in the right to receive income from it.[4]

So the processes of expanding the concept of Property has continued without substantial interruption. Even news of an event which will be published in scores of newspapers may be the object of a property right for a limited time.[5] Good will of customers, as well as the good will of employees, has been held to be a property right.[6] As has already been pointed out,

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[1]16 Wall. 36.

[2]Butchers' Union Co. vs. Crescent City Co., 111 U. S. 746, 751.

[3]94 U. S. 139.

[4]C.M.&St.P. Ry. Co. vs. Minnesota, 134 U. S. 418.

[5]National Telephone News Co. vs. Western Union Tel. Co., 119 Fed. 294, 299 (1902). See also International News Service vs. Associated Press, 248 U. S. 215 (1918).

[6]Rowell vs. Rowell, 122 Wis. 1 (1904), and Hitchman Coal Co. vs. Mitchell, 245 U. S. 223 (1917).

these expansions of the concept of Property have occurred in spite of manifest reluctance of the judiciary to admit such a broadening of the concept.[7]

In the case of the Canon Law and the doctrine of usury, the general character of the development has been the same. Canon Law adapted itself to economic change as Civil Law was to do in the case of Property, centuries later. But the technique in the two instances was directly opposite. Whereas the concept of Property was adapted to the development of capitalistic institutions by means of a process of *expansion* and *inclusion*, Usury was effectively legalized at Canon Law by means of *contraction* and *exclusion*.

Originally usury was absolutely forbidden by Canon Law. Technically it still is forbidden, and almost all writers on the subject solemnly declare that *usury* was and is forbidden by Canon Law while *interest* is allowed. But what actually happened was that usury came to have such a *restricted* meaning in the sense given to it by Canon Law, that it no longer includes the concept of pure interest, just as the legal concept of Property came into harmony with economic necessity through the device of *broadening* the Common Law meaning.

There can be no doubt that when the question of usury was first considered by theologians and Canon lawyers, the customary usage of the term *usury* was very much the same as the modern usage of the term *interest*. A considerable number of very worthy writers on the question of the legality of usury and of interest according to Canon Law, have attempted unnecessarily to maintain that the church never changed its position in regard to usury and interest, and that the development of the Canon Law doctrine of usury has simply consisted of more careful definition, and the development of a group of precedents for the guidance of the ecclesiastical courts in dealing with new forms. It seems that these writers have felt the need of justifying the church in its present position, viz., that the economic income which we now call interest is a legitimate one. It is, indeed, easily possible to justify the position of the church in this regard. In withdrawing the opposition of the church to the charging of interest the author-

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[7]For a complete analysis of the evolution of the concept of Property, see Commons, *Legal Foundations of Capitalism*, Chap. II.

ities of the church were only taking cognizance of economic reality.[8] Canon Law was only adapting itself to economic change just as does Civil Law. It is generally recognized that a system of legal institutions and principles which is evolved to fit new circumstances is socially more efficient than one which is inflexible and shows itself incapable of adjustment to human needs. But the concept of right and wrong, from a religious viewpoint, is not a matter of changing conditions, economic or otherwise. The religious concept of right and wrong is a supernatural one, and transcends mere changes in human institutions, customs and environment. This is the explanation of the elements of weakness in some of the attempts to explain the changes which have taken place in the Canonical concepts of usury. It is illustrative of the difficulty which anyone who is publicly connected with a religious institution must find in attempting to deal with historical as well as scientific material.

It is customary to defend the thesis of the supposed inflexibility of the Canonical doctrine of usury by saying, that, although usury in the sense of payment for the use of money for a given period of time was always held to be contrary to the Scriptures and to Divine law, it was nevertheless true that certain "extrinsic titles" were always recognized by the authorities of the church as justification for the payment of compensation.[9] This view cannot be accepted. The recognition of these extrinsic titles only came about during the period when the original concept of usury was already being thoroughly emasculated.

Most, if not all, of the so-called extrinsic titles were originally looked at askance by the church, and they were only established as exceptions to the rule of no interest charge after a severe struggle and the exercise of the greatest ingenuity on the part of those who represented the lenders of capital. As a matter of fact, the concept of the extrinsic title

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[8]Sombart maintains, however, that the ecclesiastical prohibition of usury was beneficial, since it resulted in diverting funds from loans for consumptive purposes to productive loans, *Quintessence of Capitalism*, pp. 247, 248. His position would perhaps be tenable if the Church had differentiated clearly between the two purposes. Such, however, was not the case.

[9]O'Brien, *An Essay on Medieval Economic Teaching*, p. 184.

as a justification of the payment of a premium for the use of money, exercised an effect on the doctrine of usury largely through the relationship between interest and profit. Interest came to be justified if it could be shown that a profit had been foregone by the lender of the funds. But in the beginning, profit itself was in none too good odor as a share in economic distribution, and it was necessary to establish the respectability of profit before it could be used as a justification for charging interest.

The emasculation of the anti-usury laws through the theory of the extrinsic title was not accepted willingly by the church. Rather the idea of a bonus being paid on a loan because of the existence of some element other than the mere use of the funds borrowed, was forced upon the church by the importunity of those whose interest it was to make usurious loans. This is made evident when the calendar of decrees of the church for the twelfth, thirteenth and fourteenth centuries is examined. Thus a decree of the second Lateran Council convened by Innocent II, in 1139, runs, "we denounce that detestable and disgraceful rapacity condemned alike by human and divine law, by the Old and the New Testament, that insatiable rapacity of usurers, whom we hereby cut off from all ecclesiastical consolation, and we order that no archbishop, that no bishop, or abbot, or cleric, shall presume to receive back usurers except with the greatest caution, that on the contrary usurers are to be regarded as infamous and shall if they do not repent be deprived of Christian burial."[10] This period of direct decrees against usury is brought to a close by the Council of Vienna (1311), which is most sweeping in its denunciation of usury and in fixing penalties for those who aid and abet it. Civil authorities who order the payment of usury, even where the debtor has recognized his debt on oath, are to be excommunicated. This shall apply whether the payment is authorized either by statute or by judicial decision. Debtors are not to be hindered in demanding restitution of usury which has already been paid. In order to prevent the exaction of usury by means of contracts which are ostensibly non-usurious, the constitution orders all money lenders to produce their accounts when required, under penalty of excom-

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contracts which were evolved to evade the legal restrictions on usury.[11] They furnish convincing evidence of the way in which the evolution of the principle of the extrinsic title was facilitating the process of contracting the meaning of usury during this very period of ecclesiastical militancy.

Among these devices for extracting the lending of capital from the category of usury, were certain forms of partnership agreements known as the *societas* and the *accomendatio*.[12] It is true that they cannot be regarded as contracts drawn up solely to escape the restrictions of the anti-usury laws. They were generally, no doubt, bona fide contracts of partnership in which the capitalist underwent a real hazard of both capital and profit. As soon as profit was recognized by the church as legitimate, these contracts could hardly be considered as forms of law evasion. They are important as the entering wedge in the pressure for the legalization of a return on capital.

Somewhat in the same category as the *societas* and *accomendatio* was the sea loan, or *foenus nauticum*. In the case af this contract the capitalist accepted the risk of loss of his capital, since if the goods or ship in which the loan was invested were to be destroyed or cast away, the borrower was released from any obligation to repay his loan. The evidence is overwhelming that the sea loan was used in a vast number of cases to avoid the anti-usury laws, although the contract also served as a primitive form of marine insurance.[13]

In addition to the *societas*, *accomendatio*, and *foenus nauticum*, there were in use in Genoese commerce during the latter part of the twelfth century and the early part of the thirteenth century at least four other forms of contract which had for their main purpose the outright evasion of anti-usury laws.

[11]References to the unpublished acts of the notaries are made in this article by referring to the notary to whom the volume is ascribed in the *Archivio di Stato di Genoa*, and to the numbered folios, or to the unnumbered reverse, as f. 52 v.

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It seems reasonably certain, however, that not all these contracts, even where specific commodities are mentioned, were bona fide sales of goods on credit. Some of the goods "loaned" were often used as money, and this was particularly true of pepper, which is mentioned very frequently in this type of contract.[21] Hence a contract of this sort may be either a sale of goods on credit, or a loan of a commodity which might

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munication. Finally all those who obstinately declare that usury is not sinful are to be punished as heretics.

This decree represents the high tide of the opposition of the church to usury. Here we find that the church has definitely invaded the field of Civil Law, and has succeeded in overriding, in theory at least, the civil authorities, and in abolishing all legal protection for usury wherever the power of the church held sway. In the phraseology of this decree, as well as others during the two centuries which preceded it is seen in the reflection of the church in a militant mood against usury in any form.

But even while the church was taking an ever more intransigent attitude toward usury, the cleverness of those who were called upon to draw up and defend contracts which were used to circumvent the anti-usury laws, was really succeeding in setting at naught the most strenuous efforts of the church to prevent usury. A large number of contractural forms were developed, some of which merely concealed the taking of usury, but others of which were drawn in such a way as to make them exempt from the penalties of Canon Law.

The net result of the contest between the usurer and the church was that the ingenuity of the usurer placed the church in such a position, that, having recognized so many exceptions to the anti-usury laws and so many extrinsic titles which justified the payment of interest or usury, at last the church was almost driven to admit that all usury in essence differed very little from the almost innumerable exceptions which had been allowed. Not that the ecclesiastical authorities ever recognized this outright. Far from it. They maintain to the last that all forms of bonus paid over and above the amount loaned, are permitted by the church because they are not usury at all. They constitute extrinsic titles. But if all these titles are to be admitted, what remains of the doctrines of usury? Almost all the possible cases which would formerly have been called usury are finally covered by the extrinsic titles.

The commercial records of the notaries of Genoa during the militant period when the church was waging an aggressive campaign against usury present interesting evidence of the way in which usurious loans were made in spite of the most strenuous efforts of the ecclesiastical authorities to prevent them. In these records examples can be found of most of the

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It is true that there were some contracts drawn up during this period, in which little attempt was made to hide their usurious nature, nor was there any attempt to legalize the transaction by the legal fiction of the "extrinsic title." One such type of loan contract provides for the payment of interest which is mentioned as a sum of money distinct from the principal of the loan.[14] The usual form that these contracts took was an agreement to pay so many *denarii* or *solidi* per *libram* borrowed, in addition to the principal. The interest paid was usually referred to as *lucrum* or *proficuum*. Sometimes instead of specifying that a certain number of *solidi* or *denarii* were to be paid for the money, an agreement was made that in return for a specified number of pounds a greater number would be repaid to the lender.[15] Rarely the term *per centum* is used. This type of loan is relatively rare, since it is in open violation of the usury laws. In some contracts of this type, the borrower is required to renounce all his rights and privileges under the anti-usury laws,[16] and in others the borrower agrees not to make any "outcry" against usury to the authorities.[17] The number of these plainly usurious contracts was quite small compared with the number which attempted to conceal or legally justify the interest charge.

In the first of the four types of contract which were used to evade the laws against usury, the borrower simply acknowledged that he had received an indefinite amount of the goods of the lender and agreed to repay a stated sum at a stipulated date.[18] It is altogether likely that the "goods" referred to were in reality money, since where actual commodities other

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tract, at first, does not seem to be properly included as an interest-bearing contract. It is open to the gravest doubt however, whether these loans were actually without any interest charge. What seems more likely is that the debtor did not actually receive as much money as is stated in the contract, but only an amount so proportioned to that which was to be repaid as to provide for the payment of the current rate of interest.

In a similar type of loan contract, the borrower promises to pay to the lender a specified sum of money at a certain date, but there is no mention of the amount which the borrower receives, nor is there any mention of interest.[27] It is probable, however, as in the above case that the amount which the borrower agreed to repay was enough greater than the sum loaned to cover interest as well as principal. As a slight variant from this form are a number of contracts in which the borrower states that he owes a certain amount and agrees to repay this same amount at a given time.[28] The only difference between this variant and the other forms of the third type consists in the fact that the borrower specifically states in this form that he owes the money and is going to repay it. In the others he merely states that he is going to give or pay a certain sum of money to another man. So far as the form goes, the promise to transfer money from one party to the other might have been in the nature of a gift, although it seems quite certain that such was not the case, and it is probable that interest was charged in all the contracts which are grouped under this head. This conclusion seems to be logical, since there were some loans for which no interest was charged, and in those cases the lenders of the funds expressly stated that the loan was *pro amore* or *gratis*.[29] Apparently the reason for making such a statement is that the lenders of these funds upon which no interest was really charged, did not want to in any way lay themselves open to a charge of usury, since actually they were receiving no interest. If it had not been the custom to conceal an interest charge in this way, the lenders of the funds "for love" would not have considered it necessary to use this expression at all.

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[27] *Ibid.*, Nos. 420, 570, 527.

[28] *Ibid.*, Nos. 528, 538.

[29] Not. Lanfr., reg. I, f. 20 v.

The fourth type of loan contract is of great interest, because it represents a particularly successful effort to bring the interest-bearing loan under the protection of both Civil and Canon Law, and because in connection with this type of loan the term "interest" first came to be used.[30] The principle upon which this loan contract was based was usually referred to as *damnum emergens.* According to Canon Law, if a loan was not repaid upon the date specified, it was permissable to charge what amounted to damages for the loss suffered in not having the money when the lender expected it. The merchants were quick to seize upon this device to evade legal prohibition against usury, and considerable ingenuity is shown by the way in which this principle was applied to specific contracts.

In analyzing loans of this type, the conclusion seems inescapable that there were two classes of such loans. The first class comprises those which provided a date for the repayment of the loan, upon which payment might reasonably be expected.[31] In this first class the contract provided that if the loan were not repaid and the lender were to suffer any loss or expense thereby, the amount of the damage suffered was to be restored to the lender by the borrower. No specific amount of damages was stated in such a contract, and apparently the lender would have had to prove that he had suffered a real loss before he could have collected anything. Moreover, according to the contract, the lender could have collected only the actual amount of such loss.

In contrast to this first class in which the date of repayment was remote enough so that the borrower might reasonably be expected to make repayment, is the second class of loan of this type, in which the date for repayment was usually placed very soon after that on which the loan was made, so that it is a reasonable assumption that neither borrower nor lender expected payment to be made at that date.[32] In addition to the characteristically short period of time which these loans were nominally to run, there was a provision whereby a definite amount of interest was to be charged for every month after

[30]The phrase used was *id quod interest*, hence the term *interest* came to mean a payment made on account of damage suffered by the lender of funds due to his loss of the use of the funds.

[31]For example, Not. Lanfr., reg. IV, 110 v.

[32]Not. Lanfr., reg. IV, f. 172.

the date when repayment was supposed to occur. The contrast between the two classes of this type of loan is apparent. In the first class the provision for damages in case of non-payment on the date specified may be a bona fide preparation against a contingency which is not expected to occur. In the second class the contract is palpably a disguise for usury, since it is extremely unlikely that the nominal date for repayment is really the date upon which repayment is expected.

All the contracts referred to above were drawn up during the period 1150 to 1220, and all of them continued in use for a long time thereafter, although during this very period the ecclesiastical authorities were constantly increasing the penalties against usury, and even insisting that the civil authorities should give no protection to the usurer. When it is remembered that in addition to the *societas, accomendatio, foenus nauticum,* and the four forms of fixed return contracts described above which were in use in the comerce at Genoa at this period, there later developed a very ingenious device for the evasion of usury laws known as the *trinus contractus* or triple contract, and that for the loan of money for non-commercial purposes the fiction of the saleo f rent charges was in use, one can realize the degree of success which had attended the lenders of money in thier efforts to lgalize usury. It can also readily be seen that when all these forms were accorded a greater or smaller amount of validity at Canon Law, the theoretical intransigence of the church had in reality become complaisance, and that the evolution of the term *usury* from the original legal meaning of interest to the present one of *extortionate interest,* had passed through the crucial stage. For a long time thereafter loan contracts might have to be drawn in terms of legal fictions, but Canon Law no longer offered an effective barrier to interest-bearing loans.

In spite of the emasculation of the Canonical doctrine of usury, the supreme authority of the church maintained persistently the theory of the essential sinfulness of usury to as late a date as 1745, when the doctrine was reaffirmed in the famous encyclical "*Vix Pervenit.*" However, beginning in 1830, and extending through a series of responses phrased "*Non esse inquietandos,*" of which the one of 1873 was particularly explicit, the Holy See directed that persons who made confession

of having charged interest on loans were to be granted absolution without the necessity for penance or restitution, "until the Holy See shall have given a decisive definition."[33]

It is interesting to note that the supreme authority of the Catholic Church has not been willing to announce a final definition of usury, nor has the Supreme Court of the United States been willing to finally define property. In spite of the differences in the theoretical sources of the Civil Law and of the Canon Law, both have proven the inevitability with which all Law adapts itself to economic conditions. Whether the theoretical source of Law be the will of God or the customs of the people, Canon Law no more than Civil Law can remain aloof from economic reality.

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[33]Quoted in Cleary, *op. cit.*, p. 175.

A BIBLIOGRAPHY OF THORSTEIN VEBLEN

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The appearance of a doctorate thesis from the University of Paris by William Jaffé entitled *Les Theories Economiques et Sociales de Thorstein Veblen* (Paris, 1924) is a reminder that the work of Thorstein Veblen may be regarded as practically complete and that the time for review and criticism of the main body of that work has arrived. That Mr. Veblen has regarded his main work as complete is evident in the publication of his works in the more popular journals such as the *Dial* and the defunct *Freeman*. He has approached the point at which popularization could be safely undertaken and his most recent work, *Absentee Ownership and Business Enterprise in Recent Times;*[1] *The Case of America* (New York, 1923) is his most effective literary work and probably his least effective scientific work. We may safely launch upon a survey of his work without fear of the necessity of serious revision through the appearance of later publications. Some such approach is necessary at an early date lest the importance of his contributions should be obscured by the violence of the controversies which have raged about them. Already the ablest of his critics have tended to neglect the significance of his main contribution.

Characteristically Mr. Thorstein Veblen has refused to contribute information to *Who's Who* and so far as I am aware the date of his birth is unknown. He is a descendant from the Scandinavian settlers of the Northwestern States. Doubtless he would describe himself as belonging to the dolichocephalic blond race—the race which according to his description of the theory—followed the retreat in the last glacial period and which because of the severity of the environment was subjected to appreciable mutation.[2] It was the race which had

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[1]J. M. Clark, "Review of Absentee Ownership," *American Economic Review*, Vol. 14, 1924, pp. 289–293. The publication of *Laxadaela Saga* tr. T. B. Veblen, 1925, is further evidence of a completion of the main economic work.

[2]*The Blond Race; The Place of Science in Modern Civilization*, pp. 455–476.

been least subject to the hybridization which had characterized European peoples in recent times. Grant[3] has emphasized the importance of the contributions of this race to European culture perhaps unduly, as Kroeber,[4] a defender of the Mediterranean races has pointed out. Nevertheless this people[5] has left its stamp on European races and on European culture as a study of the inroads of the Danes, the Vikings and the North Germans would show. In some sense Mr. Veblen has shown evidence of this lineage in his devastating attacks on the established economic theories of the current period. But Mr. Veblen has, on the whole, disregarded the importance of races in studies on European culture chiefly on the ground of the wholesale hybridization[6] which has taken place—taking strong ground that even the Jews[7] have not escaped this tendency. He has regarded this hybridization as important in its increasing the number of combinations of unit characters[8] described under the Mendelian theory but it provides no significant basis in the explanation of the trends of European cultural growth. For an explanation of Mr. Veblen's work we must turn to environmental influences.

Of these early and direct influences little is known, other than the information given to me by Mr. S. J. McLean and others that he lived a hard, energetic life in Wisconsin, the state in which he was born. He graduated from Carleton College, Minnesota, in 1880. His interests after graduation were apparently in philosophy as he continued with graduate work at Johns Hopkins University in that subject, but as his description has it, suffering a breakdown in health he decided to study economics and secured his doctorate from Yale. His study of philosophy[9] was confined chiefly to Kant, Comte,

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[3]Madison Grant, *The Passing of the Great Race or the Racial Basis of European History*. (New York, 1916.)

[4]Kroeber, A. L., *Anthropology* (New York, 1923–1924).

[5]Williams, M. W., *Social Scandinavia in the Viking Age* (New York, 1920).

[6]*Imperial Germany and the Industrial Revolution* (New York, 1915), pp. 5ff.

[7]"The Intellectual Preëminence of the Jews in Modern Europe," *Political Science Quarterly*, Vol. 34, March, 1919, pp. 33–42.

[8]*Imperial Germany, loc. cit.*

[9]Jaffé, William, *Les Theories Economiques et Sociales de Thorstein Veblen* (Paris, 1924). This volume has an excellent bibliography.

Spencer and Darwin or the positivistic school. In 1884 his first article on *Kant's Critique of Judgment* was printed in the *Journal of Speculative Philosophy.* He regarded himself in some sense as a disciple of Spencer.[10] With Darwin he was obviously impressed with the importance of evolution but he was not convinced of the finality of materialism and mechanism and he was among the first to detect the relation[11] between the Industrial Revolution and the Darwinian theory and the later theories of physics and chemistry. Like the positivists he was willing to test the theory of evolution and to attempt to work out scientific laws for economics, always remaining critical, however, and prepared to check the validity of any line of approach. It cannot be urged with satisfaction that his philosophy is determined by Hegel and Karl Marx.[12] He was influenced by these men but the roots of his philosophy are to be found in Kantianism, possibly in Comte but rather in Hume, Locke, and Spencer and post-Darwinian philosophy; he had little sympathy with Bergson [13] and the *élan vital.* It is because of the background of philosophy that he has been referred to as the most important economist to come out of America.

With this philosophical background Veblen approached the subject of economics. His approach was from the inductive side in keeping with his philosophy. He was interested in dynamics and his first important published work on economics printed in the first number of the *Journal of Political Economy* in 1892[14] was entitled "The Price of Wheat since 1867." In a later number in the same year he published an article on "The Food Supply and the Price of Wheat." These articles were models of analysis of economic facts. One is immediately struck by the similarity between the character of the analysis

[10] *Annals of the American Academy of Political and Social Science,* Vol. II, 1891–1892, pp.57ff.

[11] "The evolution of the scientific point of view," *The Place of Science,* pp. 32–35. See Ayres, C. E., *Science the False Messiah* (Indianapolis 1927).

[12] "The socialist economics of Karl Marx and his followers," *The Place of Science,* pp. 409–456.

[13] *The Instinct of Workmanship,* pp. 334n. 335n. 336n.

[14] *J.P.E.,* Vol. 1, No. 1, Dec., 1892, pp. 68–103 and no. 3, June, 1893, pp. 365–379.

and the wide range of these articles and the volume on *Business Cycles* by Wesley C. Mitchell. They were models for the work of later economists in analyzing the relationship of complex factors. The close attention to dynamic factors in these articles warrants a further consideration of his environment. His discussion covered the important period after the Civil War in which American industrialism came into full bloom. The phenomena of that period with its essential dynamic features left a strong impression on Veblen's work.

He was not only influenced by the dynamic factors of his immediate environment but also by the school of German economic historians. The German economists found themselves in a similar environment following the Franco-Prussian War of 1870 and the rapid spread of the Industrial Revolution. The American economists of the middle west had much in common with the German economists of the period after 1870. This influence was strengthened as a result of the close relationship between German universities and American universities through which large numbers of American students[15] prosecuted their studies in Germany. The influence of Schmoller and especially of the German historical school and their break with the English classical school is important to an appreciation of Veblen. If one were a disciple of the frontier school one might say that Veblen's influence on economic theory was a result of the frontier but it was the frontier of the industrial revolution which influenced his thought and not of American agriculture, important as this may have been.

At this point it is advisable to present a brief survey of Mr. Veblen's academic record. He was elected fellow at Cornell in 1891–1892. For the *Quarterly Journal of Economics* in 1892 he wrote an appraisal[16] of Bohm Bawerk's work praising him for his distinction between social and private capital but charging him with adherence to the wage fund doctrine, and an article on overproduction[17] holding that it

[15]See Seager, H. R., "Economics at Berlin and Vienna." *J.P.E.*, Vol. 1, 1892–1893, pp. 236–262 and C. F. Thwing, *The American and German University* (New York, 1928).

[16]"Bohm Bawerk's definition of capital, and the source of wages." *Q.J.E.*, Vol. VI, 1891–1892, pp. 247–250.

[17]"The Overproduction Fallacy," *ibid.*, pp. 484–492.

was a description of production at a lower price level. In the same year in an article on Socialism in the *Annals of the American Academy*[18] he attempted to explain the causes of discontent which he regarded as due to jealousy and envy. Quoting a sentence[19] which was a prelude to the *Theory of the Leisure Class:* "As we are all aware the chief element of value in many articles of apparel is not their efficiency for protecting the body but for protecting the wearer's respectability and that not only in the eyes of one's neighbors but even in one's own eyes. Indeed it happens not very rarely that a person chooses to go ill-clad in order to be well-dressed. Much more than half of what is worn by the American people may confidently be put down to the element of dress rather than to that of clothing." Socialism could not claim inadequate production as a ground for condemning modern society. On the other hand, private property was the cause of waste. Moreover, Socialism, like the British constitution, suggested a way out from the two horns of the dilemma of status and contact which were supposed to dominate all civilizations in the writings of Maine and Spencer.

As a result of these articles J. Laurence Laughlin, under the direction of President Harper in the founding of the University of Chicago, included Veblen in his raids and captures on the brilliant younger men of the older Eastern universities. He was appointed reader in 1892 and became tutor[20] in 1894, instructor in 1895–1896 and assistant professor in 1901, at which rank he remained until his resignation in 1905. Throughout his term at Chicago he gave a course on the History of Socialistic Theories. In 1895–1896 he began a course on the scope and method of political economy with special reference to the German historical school. His early articles on wheat were obviously on a subject with which he had first hand acquaintance and his analysis is strictly a price analysis with great emphasis on the state of the industrial arts —on the introduction of railroads, the ocean steamship, and

[18]"Some Neglected Points in the Theory of Socialism," *Annals of the American Academy of Political and Social Science*, Vol. II, 1891–1892, pp. 57–74.

[19]*Ibid.*, pp. 63–64.

[20]University of Chicago Calendars.

agricultural machinery. He predicted that the price of wheat would remain below 91 cents for the next decade and with the exception of 1898, when it was 93 cents, his prediction was fulfilled. It is suggestive in this connection that Veblen and his followers who have protested most against the inclusiveness of price economics have done most in the study of price phenomena. On the basis of these papers he began a course on problems of American agriculture in 1895–1896 which continued until 1900. In 1896–1897 a course on the history of political economy was added and in 1897–1898 his famous course on the economic factors of civilization was begun. This course was given in Leland Stanford[21] to 1911, in the University of Missouri[22] to 1918 and in the New School for Social Research[23] which he joined at the later date. When it was suggested that the material should be published he replied in a way which all lecturers will appreciate, that one could beat about the bush in a lecture but it was difficult to get sufficient accuracy to warrant publications. In 1904–1905 he gave his first course in trusts. In Leland Stanford and Missouri he continued with the courses on the history of socialism and the history of economic theory. At Leland Stanford he was with Professor Allyn Young as acting head, and at Missouri with Professor Davenport. At the New School he came and worked with Professor Wesley C. Mitchell. At Chicago he was editor of the *Journal of Political Economy* from 1895 to 1905. It is interesting to note the policy followed by him in the *Journal of Political Economy*[24]—the absence of articles on abstruse points of theory, the inclusion of a wide range of subjects on descriptive economics, and especially of articles on Europe, Germany, and Austria, and the number of reviews of German works. In 1895 he translated for publication[25] Gustav Cohn's *System der Finanzwissenschaft.*

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[21]Leland Stanford University Calendars.

[22]University of Missouri Calendars.

[23]Announcements of the New School for Social Research.

[24]"The Journal is established primarily to promote the scientific treatment of practical problems." *J.P.E.*, Vol. VI, 1897–1898 title page, *American Journal of Sociology*, Vol. XIV, Sept., 1898, pp. 187–201, Nov., 1898, pp. 352–365, Jan. 1899, pp. 503–519.

[25]Cohn, Gustav, *Science of Finance*. T. B. Veblen (Chicago, 1895).

It was in the last years of the decade that his most important contributions began to be published. Three articles[26] were printed in the *American Journal of Sociology,* 1898–1899, on the "Instinct of Workmanship and the Irksomeness of Labour," "The Beginnings of Ownership," and the "Barbarian Status of Women." These were introductory to the *Theory of the Leisure Class, an Economic Study of Iustitutions, 1899.* Unfortunately this proved his most popular work as shown in the number of editions through which it has run. It was written at the period when the gilded age was at its height and it marked the beginning of the revolt which has since culminated in the works of Upton Sinclair, H. L. Mencken, Sinclair Lewis and the host of modern writers. The environment was certain to evoke some such work from a man who had to do with such practical affairs as wheat farming. Its style was unfortunate, not because of its difficulty, but because of the manner in which the phrases stuck. From that work Veblen's reputation never recovered. He was regarded as the satirist with barbed phrases. Conspicuous consumption, pecuniary emulation, became "Veblenian" terms. In spite of its popularity the volume was a direct and devastating attack on the marginal utility theory. It was precisely a clash between the viewpoint of the German historical school with its stress on the evolution of institutions and the classic theory. In Veblen's work he attacked economics from two angles—consumption and production. His first important volume was designed to show the weakness of economic theory on the consumption side. He delivered a more reasoned broadside in the article on the "Limitations of Marginal Utility"[27] in the *Journal of Political Economy* for 1909, but the main task had been done. In some sense this was his most important service, and it is probably what Graham Wallas was thinking of when he described him as a genius comparable to Jeremy Bentham. He attempted to destroy the hedonistic calculus which Jeremy Bentham had done much to set up.

The gilded age was not only at its height in the gay nineties and conspicuous consumption was not only most conspicuous,

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[26]Graham Wallas' review of *Imperial Germany and the Industrial Revolution, Q.J.E.*, Vol. XXX, 1916, p. 186.

[27]*J. P. E.*, Vol. XVII, 620-636.

but also there reached a peak in the United States in that decade or in the beginning years of 1900, another prenomenon which became conspicuous on the side of production. The United States Steel Corporation was formed in 1902. The rapid strides of machine industry after the Civil War produced more goods than could be consumed without resort to conspicuous consumption, and a situation of overproduction from the standpoint of the market which resulted in the rapid formation of trusts after the seventies. After 1900 Veblen became intensely interested in this phenomenon of production. An article[28] on "Industrial and Pecuniary Employment" appeared in the *American Economic Association Publications* in 1901, and a most satiric article on "An Experiment in Trusts"[29] apeared in the *Journal of Political Economy* in 1904. In the same year his chief contribution on the side of production was published in the *Theory of Business Enterprise.*[30] An article on "Credit and Prices"[31] appeared in the *Journal of Political Economy* in 1905—again it was the attitude of a practical wheat grower which predominated and production was regarded from the standpoint of the expert engineer. In *The Theory of Business Enterprise* this prediction is worth nothing.[32] "Barring accidents and untoward cultural agencies from outside of politics, business or religion, there is nothing in the logic of the modern situation that should stop the cumulative war expenditures short of industrial collapse and consequent national bankruptcy such as terminated the carnival of war and politics that ran its course on the Continent in the sixteenth and seventeenth centuries"—a prediction amply fulfilled ten years later. With the publication of this volume his interests appear to have continued with the problems of production, and his next important work, *The Instinct of Workmanship,*[33] was published in 1914. This was followed

[28] *Publications of the American Economic Association,* series 3, Vol. II, 1901.

[29] "An early experiment in trusts," *The Place of Science*, pp. 497.

[30] *Theory of Business Enterprise* (New York, 1904).

[31] *J.P.E.*, Vol. XIII, No. 3, June, 1905, pp. 468–472.

[32] *Theory of Business Enterprise* (New York, 1904), p. 301.

[33] *The Instinct of Workmanship and the State of the Industrial Arts* (New York, 1914).

by *Imperial Germany and the Industrial Revolution,*[34] 1915, *An Inquiry into the Nature of Peace,*[35] 1917, *The Vested Interests and the State of the Industrial Arts,*[36] 1919, *The Engineers and the Price System,*[37] 1921, *Absentee Ownership,*[38] 1923. His main argument was logically developed in each of these volumes—namely, that machine industry was overwhelmingly and increasingly productive, and that the problems of machine industry were incidental to the disposal of the product.

The constructive part of Veblen's work was essentially the elaboration of an extended argument showing the effects of machine industry and the industrial revolution. Veblen's interest was in the state of the industrial arts which had got out of hand—a point similar to that urged by Samuel Butler. The destructive part of his work, contrary to general opinion, is slight, and confined to articles and reviews written in the latter period. They were chiefly concerned with contemporary economic theory, being directed as criticism of the classical and neoclassical economists, and partly as support of the historical school. On this side he was also interested in the effect of the industrial revolution on economic theory. In the articles in the *Quarterly Journal of Economics,* 1899–1900, on the preconceptions of economic science,[39] he suggested the effects of the handicraft system on the science. He attempted to trace the effects of industrialism on economic theory[40] in the later reviews and articles. In a review of Schmoller's[41] *Grundriss,* he spoke favorably of the work but criticized it for the bias which it evinced against modern tendencies. In 1906–

[34]*Imperial Germany and the Industrial Revolution* (New York, 1915).

[35]*An Inquiry into the Nature of Peace and the Terms of Its Perpetuation* (New York, 1917).

[36]*The Vested Interests and the State of the Industrial Arts* (New York, 1919).

[37]*The Engineers and the Price System* (New York, 1921).

[38]*Absentee Ownership and Business Enterprise in Recent Times, the Case of America* (New York, 1923).

[39]*Q.J.E.*, Vol. XIII, Jan., 1899, pp. 240–251, July, 1899, Feb., 1900, *The Place of Science*, pp. 82–179.

[40]"Why is Economics not an evolutionary science?" *The Place of Science*, pp. 56–81.

[41]"Gustav Schmoller's Economics,"*Q.J.E.*, Vol. XXI, Nov., 1901, pp. 69–93; also *The Place of Science.*

1907, he presented a paper on Karl Marx[42] showing the dependence of his work on Hegel. In 1908, by which time he had rounded out his work on consumption and production, he waged his onslaught on static economics by a review of Professor Clark's[43] works. In the next year he reviewed[44] Fisher's *Capital and Income,* and in 1909 his *Rate of Interest,*[45] characterizing them, as would be expected, as most effective work in the sphere of taxonomy. Contemporary economic theorists, from his point of view, were engaged in the business of classifying, and the science under Marshall[46] was in much the same position as botany under Asa Gray. If modern economic theorists were taxonomists, Veblen attempted the study of the embryology, morphology, physiology, ecology and actiology of economics. Like Professor MacIver[47] and Professor Unwin, he insisted upon the existence of laws of growth and decay of institutions and associations. His life work has been primarily the study of processes of growth and decay. It is much too early to appraise the validity of this work—certainly he attempted far too wide a field for one individual but it is the method of approach which must be stressed, and not the final conclusions. It has been unfortunate that the slight character of the work in criticism has been responsible for the violence of modern controversy and that, in consequence, the main constructive work has been forgotten.

The net results are extremely difficult to estimate. Certainly the most virile of the younger economists have been strongly influenced by his work. The intense work on descriptive economics in the United States has been partly a result of the suggestiveness of Veblen.[48] He has been largely the cause of a split in American economics, with the classical

[42]"The Socialist Economics of Karl Marx and His Followers," *Q.J.E.*, Vol. XX, Aug., 1906, pp. 575–595; Vol. XXI, Feb., 1907, pp. 299–322; also *The Place of Science.*

[43]"Professor Clark's Economics," *ibid.*, Vol. XXII, Feb., 1908, also *The Place of Science.*

[44]*Political Science Quarterly*, Vol. XXIII, March, 1908, pp. 112–128.

[45]*Ibid.*, Vol. XXIV, June, 1909, pp. 296–303.

[46]*The Place of Science*, pp. 175ff.

[47]MacIver, R. M., *Community* (London, 1917), *The Modern State* (Oxford, 1926).

[48]Homan, Paul T., *Contemporary Economic Thought* (New York, 1928).

and the neoclassical students ranged and opposed to the "evolutionists." In England the Intelligentsia[49] of the British Labor Party have each in turn paid tribute to Veblen's influence. It would probably be unwise to draw comparisons, but his position in the industrial revolution is, to a large extent, similar to that of Adam Smith at the beginning of the revolution. He has been the first to attempt a general stock-taking of general tendencies in a dynamic society saddled with machine industry, just as Adam Smith has been the first to present a general stock-taking before machine industry came in. As with Adam Smith, nothing is more conspicuous in his work than his attention to current events and his interests in dynamics.[50] Only less conspicuous was his attempt to maintain an unbiased approach—a point on which he had criticized Schmoller. His interest in anthropology, his terrific irony, and his fearlessness were weapons protecting him from absorption into the partialities of modern movements. His anxiety has always been to detect trends and to escape their effects. On being charged with bias against existing institutions by a reviewer of the *Theory of the Leisure Class,* he replied characteristically, "If one would avoid paralogistic figures of speech in the analysis of institutions, one must resort to words and concepts that express the thoughts of the men whose habits of thoughts constitute the institutions in question." It was this emphasis on the importance of the scientific point of view which led him to write *The Higher Learning in America or a Memorandum on the Conduct of Universities by Business Men* (New York, 1916), and which encouraged him along with his disciples, especially Wesley C. Mitchell, to found the New School for Social Research in which no degrees were to be given, and the only sustaining motive was the stimulus to research. Like Adam Smith, he is an individualist, and like most individualists in continental countries, in which the industrial revolution made such rapid strides, he is in revolt against mass education and standardization. Mr. Veblen has continued with Unwin, MacIver, Fay and Tawney the work begun by Adam Smith on behalf of the

[49]Webb, S., and B., *The Decay of Capitalist Civilization* (London, 1923).

[50]Tawney, R. H., *The Acquisitive Society* (New York, 1921).

individual and the common man. Veblen's satire, on the other hand, is a product of America, or of the industrial revolution with a continental background. As Veblen has pointed out, England, although the first to feel the effects of the industrial revolution, has never been conquered by it. America and the new continental countries have been less fortunate.

In conclusion, his work is a consistent whole, and springs essentially from a post civil war environment, when the terrific increasing efficiency of machine industry brought problems of conspicuous consumption and of checking of production. It stands as a monument to the importance of an unbiased approach to economics and as an incentive to research in the current problems of the industrial revolution. In the perennial struggle between standardization and dynamic growth, between static theory and dynamic history, between Frankenstein's monster and Frankenstein, between mechanization and the instinct of workmanship, Veblen has waged a constructive warfare of emancipation against the tendency toward standardized static economics which becomes so dangerous on a continent with ever-increasing numbers of students clamoring for textbooks on final economic theory. He attempted to outline the economics of dynamic change and to work out a theory not only of dynamics but of cyclonics.

Any substantial progress in economic theory must come from a closer synthesis between economic history and economic theory. The extensive work being done in economic history in the origin and growth of institutions by the late Professor Unwin, and his school, Professor Fay,[51] Professor Tawney and Professor Gras, will call for more diligent application in the synthesis with economic theory. It is to be hoped that economic theory will not disappear through neglect or through the deadening influence of specialization, and that Veblen's attempts at synthesis may be revised and steadily improved. The conflict between the economics of a long and highly industrialized country such as England and the economics of the recently industrialized new and borrowing countries[52] will become less severe as the study of cyclonics is

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[51]Hobson, J. A., *Free-Thought in the Social Sciences* (London, 1926).

[52]See especially Fay, C. R., *Great Britain from Adam Smith to the Present Day,* (London, 1928).

worked out and incorporated in a general survey of the effects of the industrial revolution such as Veblen has begun and such as will be worked out and revised by later students.[53]

[53]This paper is directly opposed to the conception that Mr. Veblen's work is to be regarded in the biological sense as that of a sport and is intended to stress the importance of the environmental factor. Having actually lived through one of the economic storms of new countries, he has attempted to work out some of their important characteristics. His contribution to economics is directly in relation to this background.

Thus if the price of European farm products has increased in proportion to their increased cost of production and in proportion to the prices of food, clothing and the other products which they must buy, their financial position is similar to that before the war. Herein lies the great difficulty of the European farmers, as with our own farmers. The cost of production and the prices of products which the farmers must buy have risen out of all proportion to the prices of farm products. A leading German economist has estimated that the price of farm products in Germany increased only two-thirds as fast as the price of industrial products between the periods of 1909–1913 and 1919–1926, and the price of farm products increased only 71 per cent as fast as the price of family supplies. An estimate made for Great Britain shows similar discrepancies in farm prices and industrial prices. Thus farm prices increased only 84 per cent as fast as farm implement prices, 81 per cent as fast as the prices of building materials, and 80 per cent as fast as coal, iron, nitrates, and cotton cloth.

In addition to the cumulative effect of decreased production and decreased relative prices, the European farmer probably pays two, three to four times as much taxes as he did before the war.

It is obvious that with a depreciated supply of equipment and land and the high cost of labor and taxes, the European farmer is in great need of credit. In fact, he has been getting a great deal of credit, but it too is very expensive. In spite of the fact that England was able to maintain a better financial position after the war than the other European belligerents, the interest rate on long-term loans has increased from 3 and 4 per cent to 5½ per cent. Germany, on the other extreme, has been having to pay from 8 to 12 and even 15 per cent for funds with which to replace its deteriorated equipment. On first thought it appears that German farmers who had given mortgages on the farms to the extent of 12 billion marks and who were able to pay off this debt with worthless money during the period of inflation are better off than they were before the war. But such is not the case. The German Government not only compelled the farmers to renew the mortgages and pay their creditors about 25 per cent of the original amount in gold marks, but the interest rate was arbitrarily raised from

THE EUROPEAN FARMER SINCE THE WAR

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After the War the farmers of England, France, Germany and Belgium found that their land had greatly decreased in productivity, and their machinery and equipment had depreciated in value. Commercial fertilizer manufacturers had been engaged largely in supplying war materials and the farmer's most important method of maintaining the fertility of the soil had almost fallen into disuse. The women, children, and old men who had been running the farms had been taxing the soil to the maximum without replacing the elements of fertility which were absorbed by crops. Farm buildings and machinery had depreciated year after year in the absence of funds to replace them. Also, the supply of draught and food animals had decreased. The armies not only required a large number of horses but the maintenance of the soldiers required an extraordinary amount of beef, pork, and other meat products. Thus the number of farm animals per 100 inhabitants in Germany decreased from 77 in 1913 to 66 in 1925, while those in Great Britain decreased from 87 in 1913 to 80 in 1925.

In addition to the serious depreciation of soil fertility and the depletion of equipment and livestock, farm labor had become very scarce and expensive. So the European farmer had to contend with poor land and equipment and high wages. The resulting decreased production is illustrated by the production figures. In Germany the average annual production of wheat from 1909 to 1913 was 4.2 million tons, while the average from 1924 to 1926 was 2.7 million tons; the other leading crop—rye—decreased from 11.3 million tons to 9.7 million tons.

Of course a decreased total production does not always mean that producers are in a poorer financial condition. It has been estimated, for instance, that our cotton crop in 1927, some 12 or 13 million bales, brought a larger total return than the 1926 crop of 18 million bales. That is, we were getting a price in 1927 which was about twice as high as that of 1926, while our production had decreased by only one-third.

4 per cent to 5 per cent. German financiers who are in close touch with farm credit problems point out that the farmer's debt burden is about the same now as before the war, since he is saddled with one-fourth of the old debt and has paid 10 to 15 per cent on new loans. That is, they say, the annual amount which the farmer must pay in interest and principal is about the same as before the war.

So much for some of the economic problems of European farmers. What are they doing to improve the situation? The farmers' programs, if they can be said to have any, vary considerably from one country to another depending (1) on the progress which had been made before the war, and (2) on the relative power of the agricultural industry in the affairs of the various countries.

European farmers are making four main lines of attack to improve their economic position: (1) they are making strenuous efforts to increase production, (2) they are attempting to reduce the cost of production, (3) they are improving their methods of marketing, and, (4) they are attempting to get higher prices through protective tariffs.

Production is gradually being brought back to pre-war levels through the use of commercial fertilizer and the replacement of livestock and worn-out equipment. As Professor Max Sering of the University of Berlin expressed it, the war had one good result: "We learned how to take nitrogen from the air." This improvement has greatly facilitated the production of fertilizer and is proving to be a great boon to the farmer. Strangely enough the replacement of livestock and equipment has been hastened in the continental countries by the uncertainty of monetary values. This was particularly noticeable in Germany in 1922 and 1923 when the mark was rapidly declining in value. Farmers immediately exchanged their money incomes for machinery, livestock and buildings rather than risk a decrease in the value of money. In many cases they reverted to the ancient system of barter and had nothing to do with money.

The process of restoring fertility to the land and replacing the wornout equipment has been aided by the use of credit. The Governments of Germany and France have each established a large central bank for the purpose of securing the

worked out and incorporated in a general survey of the effects of the industrial revolution such as Veblen has begun and such as will be worked out and revised by later students.[53]

[53]This paper is directly opposed to the conception that Mr. Veblen's work is to be regarded in the biological sense as that of a sport and is intended to stress the importance of the environmental factor. Having actually lived through one of the economic storms of new countries, he has attempted to work out some of their important characteristics. His contribution to economics is directly in relation to this background.

THE EUROPEAN FARMER SINCE THE WAR

BY V. P. LEE

Agricultural and Mechanical College of Texas

After the War the farmers of England, France, Germany and Belgium found that their land had greatly decreased in productivity, and their machinery and equipment had depreciated in value. Commercial fertilizer manufacturers had been engaged largely in supplying war materials and the farmer's most important method of maintaining the fertility of the soil had almost fallen into disuse. The women, children, and old men who had been running the farms had been taxing the soil to the maximum without replacing the elements of fertility which were absorbed by crops. Farm buildings and machinery had depreciated year after year in the absence of funds to replace them. Also, the supply of draught and food animals had decreased. The armies not only required a large number of horses but the maintenance of the soldiers required an extraordinary amount of beef, pork, and other meat products. Thus the number of farm animals per 100 inhabitants in Germany decreased from 77 in 1913 to 66 in 1925, while those in Great Britain decreased from 87 in 1913 to 80 in 1925.

In addition to the serious depreciation of soil fertility and the depletion of equipment and livestock, farm labor had become very scarce and expensive. So the European farmer had to contend with poor land and equipment and high wages. The resulting decreased production is illustrated by the production figures. In Germany the average annual production of wheat from 1909 to 1913 was 4.2 million tons, while the average from 1924 to 1926 was 2.7 million tons; the other leading crop—rye—decreased from 11.3 million tons to 9.7 million tons.

Of course a decreased total production does not always mean that producers are in a poorer financial condition. It has been estimated, for instance, that our cotton crop in 1927, some 12 or 13 million bales, brought a larger total return than the 1926 crop of 18 million bales. That is, we were getting a price in 1927 which was about twice as high as that of 1926, while our production had decreased by only one-third.

Thus if the price of European farm products has increased in proportion to their increased cost of production and in proportion to the prices of food, clothing and the other products which they must buy, their financial position is similar to that before the war. Herein lies the great difficulty of the European farmers, as with our own farmers. The cost of production and the prices of products which the farmers must buy have risen out of all proportion to the prices of farm products. A leading German economist has estimated that the price of farm products in Germany increased only two-thirds as fast as the price of industrial products between the periods of 1909–1913 and 1919–1926, and the price of farm products increased only 71 per cent as fast as the price of family supplies. An estimate made for Great Britain shows similar discrepancies in farm prices and industrial prices. Thus farm prices increased only 84 per cent as fast as farm implement prices, 81 per cent as fast as the prices of building materials, and 80 per cent as fast as coal, iron, nitrates, and cotton cloth.

In addition to the cumulative effect of decreased production and decreased relative prices, the European farmer probably pays two, three to four times as much taxes as he did before the war.

It is obvious that with a depreciated supply of equipment and land and the high cost of labor and taxes, the European farmer is in great need of credit. In fact, he has been getting a great deal of credit, but it too is very expensive. In spite of the fact that England was able to maintain a better financial position after the war than the other European belligerents, the interest rate on long-term loans has increased from 3 and 4 per cent to 5½ per cent. Germany, on the other extreme, has been having to pay from 8 to 12 and even 15 per cent for funds with which to replace its deteriorated equipment. On first thought it appears that German farmers who had given mortgages on the farms to the extent of 12 billion marks and who were able to pay off this debt with worthless money during the period of inflation are better off than they were before the war. But such is not the case. The German Government not only compelled the farmers to renew the mortgages and pay their creditors about 25 per cent of the original amount in gold marks, but the interest rate was arbitrarily raised from

4 per cent to 5 per cent. German financiers who are in close touch with farm credit problems point out that the farmer's debt burden is about the same now as before the war, since he is saddled with one-fourth of the old debt and has paid 10 to 15 per cent on new loans. That is, they say, the annual amount which the farmer must pay in interest and principal is about the same as before the war.

So much for some of the economic problems of European farmers. What are they doing to improve the situation? The farmers' programs, if they can be said to have any, vary considerably from one country to another depending (1) on the progress which had been made before the war, and (2) on the relative power of the agricultural industry in the affairs of the various countries.

European farmers are making four main lines of attack to improve their economic position: (1) they are making strenuous efforts to increase production, (2) they are attempting to reduce the cost of production, (3) they are improving their methods of marketing, and, (4) they are attempting to get higher prices through protective tariffs.

Production is gradually being brought back to pre-war levels through the use of commercial fertilizer and the replacement of livestock and worn-out equipment. As Professor Max Sering of the University of Berlin expressed it, the war had one good result: "We learned how to take nitrogen from the air." This improvement has greatly facilitated the production of fertilizer and is proving to be a great boon to the farmer. Strangely enough the replacement of livestock and equipment has been hastened in the continental countries by the uncertainty of monetary values. This was particularly noticeable in Germany in 1922 and 1923 when the mark was rapidly declining in value. Farmers immediately exchanged their money incomes for machinery, livestock and buildings rather than risk a decrease in the value of money. In many cases they reverted to the ancient system of barter and had nothing to do with money.

The process of restoring fertility to the land and replacing the wornout equipment has been aided by the use of credit. The Governments of Germany and France have each established a large central bank for the purpose of securing the

best possible distribution of loanable funds in the country and to obtain additional funds in foreign countries. Germany has a most excellent system of farmers' coöperative banks which date from Frederick the Great's time. Before the war the German farming class was practically self-sufficing so far as credit was concerned. Farmers in need of loans borrowed from the bank which had the surplus funds of other farmers. But during the war these banks became the empty shell of the old credit system. The great problem has been that of finding funds to feed through this system of banks to the farmers. During July of 1927 alone $25,000,000 were obtained from our own National City Bank of New York to be dispensed through farmers' banks. In France the director of the central agricultural bank obtains funds directly from the Government to finance farmers. These are of course emergency measures. That the situation is gradually improving is indicated by the fact that there is an increasing amount of savings on deposit in farmers' coöperative banks.

In addition to increasing production, European farmers are most strenuously attacking the problem of reducing the cost of production. Scientific farm management is being studied in Germany and England as never before. The leadership in this work is being taken by Oxford and Cambridge in England and the Universities of Berlin, Leipzig, Breslau, and Bonn in Germany. Extensive investigations are being made to determine the most economic combination of land, labor, and capital in farm production, as well as the most economic combination of crops and livestock. An experiment station has recently been established in Germany for the sole purpose of studying the economic use of farm labor.

The post-war agricultural depression in Europe has resulted in many improvements in marketing methods. As in our own country the movement for coöperative marketing has received great impetus. Our commercial attaché in Paris estimates that the number of coöperative associations among French farmers has increased 25 to 30 per cent since the war. The number of coöperative associations among German farmers has probably been increased 30 to 35 per cent since the war. While many of these farmers' associations are organized for credit, insurance, and other purposes than marketing, the function of selling farm products and buying farmers'

supplies is being widely adopted by these organizations. At least two nation-wide farmers' coöperatives in Germany maintain central buying organizations in Berlin. Fertilizer, machinery, and building materials are bought on a large scale and distributed to farmers through the provincial and local societies. Coöperative purchasing has always been the chief marketing function of these organizations, but coöperative selling is rapidly gaining. It is estimated, for instance, that 25 per cent of all dairy products sold in Germany is now sold through farmers' organizations. Likewise, an increasing percentage of grain and potatoes is being sold coöperatively. While the continental farmers have expanded their marketing operations, the English farmers have done little along this line except in the dairy sections, particularly with regard to the sale of whole milk. The only farmers' organization of any great importance—the National Farmers' Union—seems to be engaged largely in matters other than marketing. However, the British Ministry of Agriculture is putting forth every effort to improve marketing methods through better standardization of farm products.

It is interesting to note that both English and continental farmers look to the Danes in matters of coöperative selling. Also, they look to American farmers as leaders in coöperative selling, but in most cases they seem to despair of ever being able to sell on such large scale as do our wheat and cotton associations.

The most universal and consistent effort put forth by agricultural leaders in Europe seems to be directed toward securing tariffs to protect the home market and raise the price of farm products. And the degree of success which they are having in this direction, varies greatly from one country to another according to the power which farmers have in national affairs. In England, of course, the farmer is a negligible quantity. Putting a tariff on a product to help one English farmer would mean raising the cost of living of about four laborers, merchants and manufacturers. Under such conditions, in spite of the fact that the National Farmers' Union continually lobbies for tariff measures and Stanley Baldwin occasionally makes half-hearted promises, a tariff is impossible.

On the other extreme is Belgium which is largely an agricultural country. Members of the Chamber of Deputies religiously court the favor of the Peasants' League throughout their term of office, as well as during the election season.

In France slightly more than one-half of the population is agricultural. Here the influence of the farmer in national affairs has greatly increased since the war because of his value as a social stabilizer and as an economic factor in rehabilitating French public finances. An extremely high percentage of French farmers own their farms and they have consistently opposed extremist propaganda which has developed to such a large extent in European countries. As a producer he is considered a most dependable asset in the rehabilitation of French finances which are so heavily burdened with war charges. Therefore, numerous encouragements, especially in the way of customs protection, have been offered him in order that he may produce as largely as possible and bring about a reduction in expenditures for foodstuffs imported from abroad. In striking contrast to the lack of power of English and American farmer in his government the French farmer is criticized by French industrial and commercial interests as follows: (1) he is responsible for high prices; (2) he shirks his fiscal duties, and (3) he receives too much tariff protection.

The German farmer occupies the middle ground of influence with his Government. He does not have the enormous influence enjoyed by the Belgian and French farmer; yet he is far more potent than the English farmer. Here it is stoutly argued by industrial and commercial interests that the severe competition which they meet in the world markets makes it impossible for them to stand the burden of a tariff duty on products. Such tariff they say will increase the cost of living for their laborers and compel them to pay higher wages, whereas, their success in world markets depends on their ability to hire cheap labor. On the other hand, the farming interests have the argument of the great discrepancy between farm prices and industrial prices. At the same time the German nationalist reasons that the future security of the nation depends upon the proper maintenance of the agricultural industry and that in view of present price discrepancies the farmer should be protected. The outcome of the conflict is

that the idea of national security is logical enough and that the farmer vote is numerous enough to demand a considerable amount of protection for farm products subject to foreign competition.

To summarize, the European farmer is slowly improving his situation. The figures for the past three or four years show that total production is gradually increasing, that costs, aside from taxes, are being reduced, that farm prices are slowly becoming adjusted to industrial prices, that the interest rate on borrowed capital is rapidly being reduced, and that marketing methods are improving. At best it is a long and slow process of readjustment.

VOTING IN CALIFORNIA, 1900–1926

BY CHARLES H. TITUS

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This is the third of a series of studies of voting in the State of California, the first having to do with "Voting in California Cities"[1] and the second with "Rural Voting in California."[2] Voting behavior on the part of the people of California taken as a single unit is the problem under consideration at this time. This study not only throws additional light on the first and second problems but it also adds considerable to our store of knowledge in this third field.

The limitations placed on this study are slightly different from those placed on the previous ones. The period of time remains the same—the first quarter of the twentieth century, and the same general method is followed, partly in order that the work may be comparable with the work already accomplished. The number of units considered is cut from twenty-two to one—the State of California.

The number of elective offices is increased from four to thirteen and in addition the votes cast for some amendments to the State Constitution some initiative and referendum measures are included. The following are the offices included in this study of voting in California—1900–1926:

Presidential Electors (hereafter referred to as President); Congressman; United States Senator; Governor; Lieutenant-Governor; Secretary of State; Treasurer; Comptroller; Attorney General; Surveyor General; Superintendent of Public Instruction; Assemblyman; Justices of the Supreme Court.

As with the work on city and rural voting we are concerned here with neither the vote cast for and against candidates and measures nor the causes back of the voting at the various elections. Total votes cast for the offices and measures are of concern here; the problems of cause may be studied at a later date after more is known about behavior.

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[1]See "Voting in California Cities, 1900–1925" by the author in *The Southwestern Political and Social Science Quarterly*, Vol. VIII, No. 4, March, 1928.

[2]*Ibid.*, Vol. IX, No. 2, September, 1928.

CALIFORNIA

From the standpoint of square miles California is the second state in these United States with 158,297. According to the United States Census of 1920 she was the eighth ranking state with a population of 3,426,861. California occupies about half of the Pacific coastline of the United States. It is about a thousand miles from the Oregon-California line to the Mexican-California boundary. It is divided into fifty-eight counties and has two important metropolitan areas—Los Angeles and San Francisco Bay.

The population of the state, according to a fairly satisfactory estimate, has increased in the period of our study from 1,500,000 to more than 5,200,000. The population estimates, listed in the table which follows, are secured by interpolating between the known population figures as of census years with the aid of the annually compiled series "Total average daily attendance of Grade Schools (first to eighth, inclusive), for the State of California." This series more nearly parallels the known population changes than any other series considered. The formula is as follows:

$$P_{01} = \frac{P_{00}}{G_{00}} - .1\left(\frac{P_{00}}{G_{00}} - \frac{P_{10}}{G_{10}}\right) = G_{01}$$

$$P_{14} = \frac{P_{10}}{G_{10}} - .4\left(\frac{P_{10}}{G_{10}} - \frac{P_{20}}{G_{20}}\right) = G_{14}$$

Notation	Subscripts
P=Population	$_{00}$=1900
G=Grade A.D.A.	$_{10}$=1910 etc.

To extend the estimates this side of 1920 the ratio of population to Grade A.D.A. remains fixed as California has compulsory attendance law which extends beyond the grammar school. The formula for extrapolation is:

$$P_{22} = \frac{P_{20}}{G_{20}} - G_{22}$$

Voting population prior to 1912 includes all males twenty-one years of age and over, minus alien males twenty-one and over. Since the middle of 1912 it includes males and females twenty-one and over, minus alien males and females twenty-

one and over, as woman suffrage became a fact in 1912. These estimates might have been further refined by removing the estimates of insane, criminals, etc., from the above determined estimates, but for practical purposes the refining process was omitted. The error in estimating voting population probably lies on the upper side rather than on the lower, in other words, the estimates are a little high. Furthermore, they are comparable with the estimates of city and rural voting populations.

The table which follows presents the total population, total voting population, total registration, and total vote cast for President and for Governor from 1900 to and including 1926.

TABLE I

STATE OF CALIFORNIA
(in 000)

Year	Total Population	Total Voting Population	Total No. Registered	Total Vote cast for President	Total Vote cast for Governor
1900	1,507	468		304	
1902	1,640	517			305
1904	1,800	575		332	
1906	2,050	663			312
1908	2,360	789		387	
1910	2,425	805			386
1912	2,675	*1,582	987	673	
1914	2,980	1,770	1,219		927
1916	3,120	1,867	1,314	999	
1918	3,215	1,935	1,203		689
1920	3,575	2,157	1,374	943	
1922	4,220	2,546	1,532		966
1924	4,860	2,935	1,822	1,282	
1926	5,240	3,171	1,913		1,144

*Women voted for the first time.

These series of estimates—population and voting population—are two of the important devices used in measuring the voting behavior as expressed by total votes cast.

RESULTS

The results of the study are presented under eight headings. There appears a certain amount of overlapping, but that is

to be expected since this is a closely related study in one given area.

I. The State Executive Offices

The eight important executive offices of the State of California were filled by election in 1902 and each four years thereafter, to and including 1926. There were seven elections and the offices considered are: Governor, Lieutenant-Governor, Secretary of State, Treasurer, Comptroller, Attorney General, Surveyor General, and Superintendent of Public Instruction. These eight can well be divided into three groups, political, financial, and technical or administrative. The first three are political, the fourth and fifth are financial, and the remaining three are administrative.

At no time during this period does the absolute vote cast for Secretary of State equal or surpass the absolute vote cast for Lieutenant-Governor. The same can be said of the votes cast for Lieutenant-Governor when compared with the votes cast for Governor.

The votes cast for the two finance offices are about equal when one is compared to the other. On no occasion do the voters of California cast a heavier vote for either of the finance offices than for any one of the political offices.

At the beginning of this period the voting is as heavy for the three administrative offices as for the finance, but by the end of the period, the differences are quite marked.

Table II

TOTAL VOTE CAST

(in 000)

For	1902	1926
Superintendent of Public Instruction	286.0	799.0
Surveyor General	287.	818.
Attorney General	288.	850.
Treasurer	287.2	991.
Comptroller	287.6	1,011.
Secretary of State	290.	1,048.
Lieutent-Governor	295.	1,048.
Governor	304.	1,144.

In 1902 the vote cast for the Superintendent of Public Instruction is only 6 per cent less than the vote cast for Governor, while in 1926 it is 30 per cent less.

The trends and tendencies of voting behavior for these eight state executive offices is measured by equations of lines of best fit. As there are only seven units in each of the series straight lines are fitted to them. The following table presents the results of measuring these trends.

TABLE III

STATE OF CALIFORNIA
STATE EXECUTIVE OFFICES

For Office	Values of "a," "a+nb," and of "b" in the equations of lines of best fit to: Votes cast per 1,000 of the population			Votes cast per 1,000 of voting population		
	a	a+nb	b	a	a+nb	b
Governor	177	243	+11.0	558	346	—35.0
Lieutenant-Governor	172	226	+ 9.0	542	320	—37.0
Secretary of State	169	217	+ 8.0	527	305	—37.0
Treasurer	167	207	+ 6.7	526	290	—39.0
Comptroller	167	207	+ 6.7	525	291	—39.0
Attorney General	175	187	+ 2.0	539	255	—47.0
Surveyor General	175	179	+ 0.8	535	243	—49.0
Superintendent of Public Instruction	173	169	— 0.5	532	228	—51.0

a=1902 ordinate
a+nb=1926 ordinate
b=Mean *quadrennial* change.

The steady decline in the "b" columns portrays the loss of interest in the executive offices when compared one to another. One should note the gaps in columns "b" between the three classes of offices and the narowness of the spread within the classes. Attention is also called to the spread from top to bottom in the "a+nb" columns when compared to the spread in the "a" columns, and finally one can only wonder what

might have hapuened to our figures if the woman suffrage program had not, so to speak, come to the rescue.

II. State Measures

Back in 1878, the California electorate adopted a constitution of such a nature that it has been necessary for them to amend it frequently. Hardly a general election takes place without the voters being called upon to ratify or reject a number of constitutional amendments. In a recent general election (November, 1928), the ballot presented seventeen constitutional amendments, two initiative measures, and two referendum measures to the voters. This was not an exceptional ballot. These vary from an amendment changing the fee paid to grand and trial jurors to prohibition, and from a referendum on reapportionment in the State Senate to an amendment allowing trial by jury to be waived in criminal cases.

In comparing the vote cast for the measure which received the highest vote of all measures voted on at the given election with the vote cast for President or Governor as the case might be, it is found that in no case was the vote cast for the measure as great as or greater than the vote cast for the chief executive office for which votes were cast at the given election.

Until 1914 when the people voted on prohibition no amendment vote was as great as the vote cast for Superintendent of Public Instruction.

Since 1914 the vote on amendments has distributed itself from the vote cast for Lieutenant-Governor down.

At six general elections prohibition measures have been proposed to the electorate. On four of these occasions (1914, 1916, 1918, and 1926) the vote cast was larger than for any other measure. In 1920 and 1922 other measures were first from the standpoint of size of vote cast.

At eight general elections proposals to amend the judicial branch of government were submitted to the voters—four at the beginning of the period (1900–1906) and four toward the end (1918–1924). The votes cast are considerably smaller than those cast for the administrative offices. In no case was the judicial measure the most important one when importance is determined by the size of the vote cast.

On two occasions (1914 and 1920) the problem of calling a constitutional convention was considered. In both cases the measures were defeated. In the first instance the vote cast was about 20 per cent lighter than that cast for the Superintendent of Public Instruction, and in the second instance it was about 25 per cent lighter than the vote cast on the prohibition measure.

At the last three elections (1922, 1924, and 1926) electric power measures of one kind or another have appeared on the ballot. In 1922 the vote cast was as large as that cast for Secretary of State. In 1924 it was the most important measure on the ballot. In 1926 the vote was almost as heavy as that cast for the Treasurer.

III. Federal Elective Offices

During the entire period the people of California have cast votes for President and for Congressman and during the latter portion they have in addition voted for United States Senator. The table which follows presents the votes cast for President and for Congressman:

Table IV

STATE OF CALIFORNIA

FEDERAL OFFICES

Year	Total Absolute Vote Cast (in 000)		Votes Cast per 1,000 of Population		Votes Cast per 1,000 of Voting Population	
	for President	for Congressman	for President	for Congressman	for President	for Congressman
1900	3,040.0	336.8	202	223	651	722
1902		291.0		178		564
1904	3,320.0	328.1	184	183	576	571
1906		282.0		138		425
1908	3,870.0	371.6	164	158	490	471
1910		363.0		150		451
1912	672.5	622.8	252	233	425	393
1914		856.7		288		484
1916	998.4	882.6	320	283	536	473
1918		614.9		191		318
1920	943.5	812.0	264	227	437	377
1922		782.5		186		308
1924	1,281.8	997.9	264	206	436	340
1926		954.6		183		301

At least three items of importance are to be noted in studying this table—the general decline in votes cast for Congressman relative to either population or voting population—the vote cast for Congressman is larger than that cast for President in the first election—and the vote cast for Congressman is generally smaller in the bi-election than in the presidential.

A United States Senator has been elected at each of the following elections: 1914, 1916, 1920, 1922, and 1926. More votes were cast in these elections for Senator than for Congressmen. On three of the five occasions the vote cast for Senator was slightly larger than that cast for the most important measure. At the other two elections it was a little smaller. In general the vote cast for Senator is somewhat smaller than the vote cast for either President or Governor.

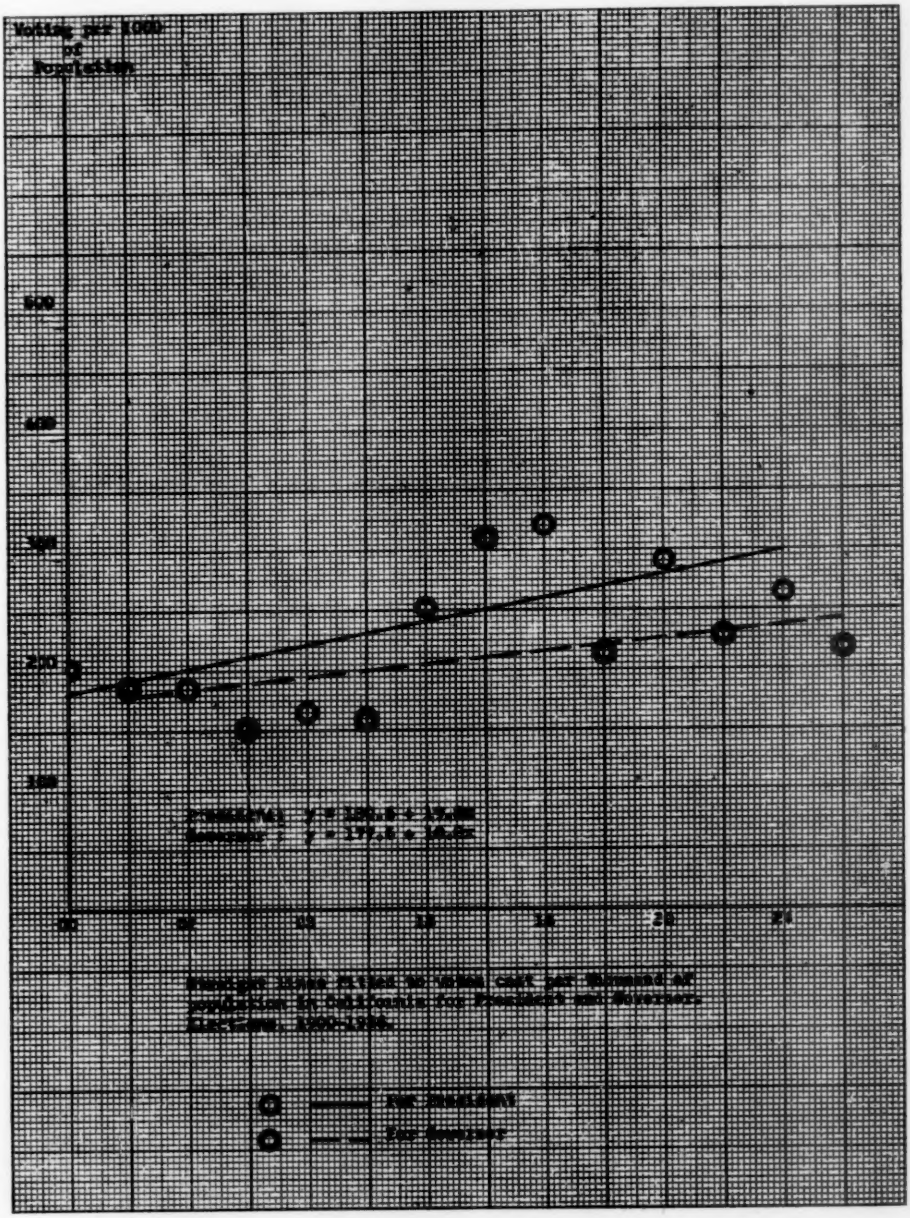
IV. Comparison of President, Governor and Assemblyman

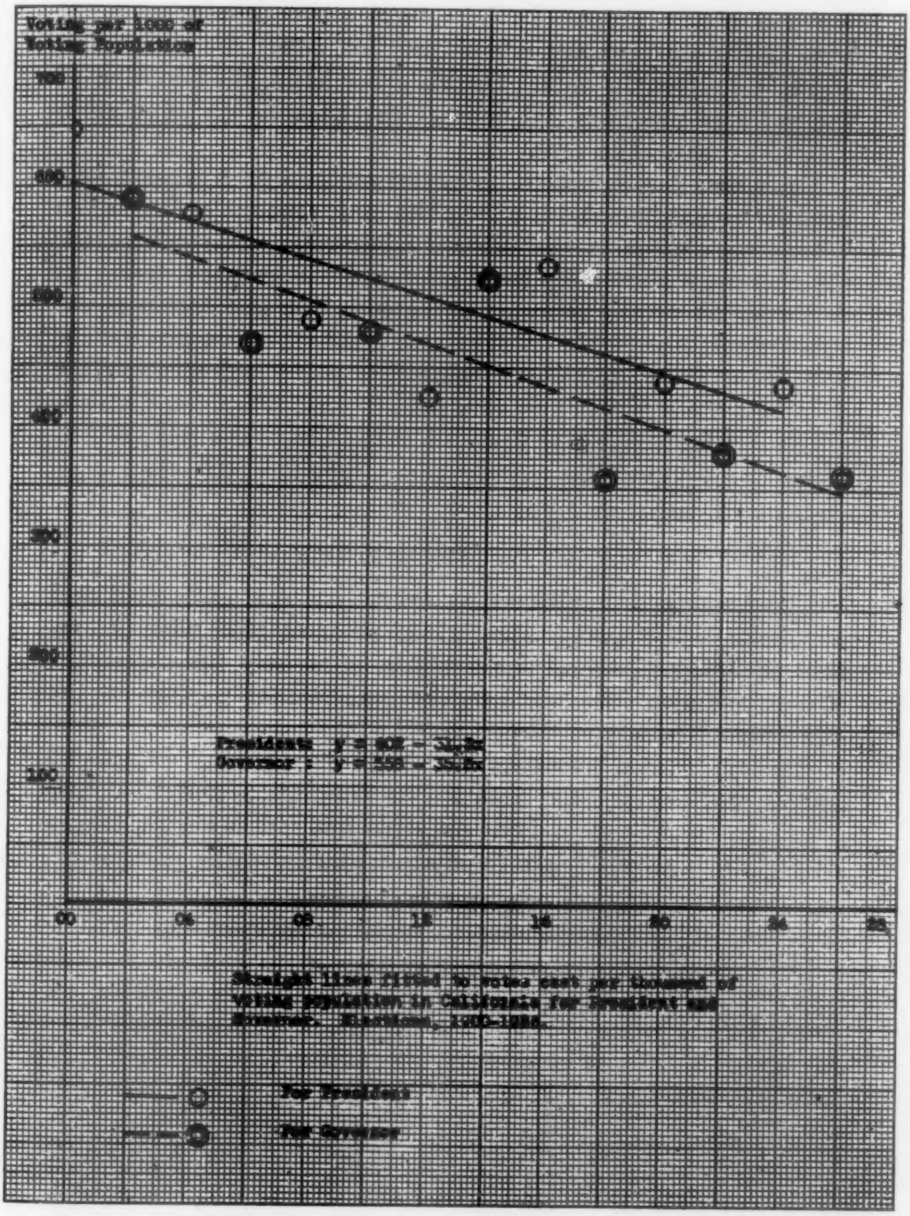
The table and graphs which follow compare these three offices. The "a" columns represent the 1900 ordinate in the case of President and Congressman. It represents the 1902 ordinate in the case of Governor. The "a+nb" columns represent the 1924 and 1926 ordinates, respectively; "b" equals the mean quadrennial change in votes cast.

COMPARISON OF VOTES CAST

For	Values of "a," "a+nb," and "b" in equations of lines of best fit to					
	Votes cast per 1,000 of the population			Votes cast per 1,000 of Voting Population		
	a	a+nb	b	a	a+nb	b
Governor	177	243	+11.	558	346	—35.3
President	180	288	+18.	601	413	—31.3
Congressman	187	217	+ 5.	575	311	—44.0

The actual vote cast for Congressman in 1900 is larger than the absolute vote cast for President.


Voting per 1000
of
Population
500
400
300
200
100



It must be remembered that the introduction of woman suffrage in 1912 accounts for the —"b's" when population is the base as the suffrage amendment did not affect the population and it did affect the vote. On the other hand, the adoption of the suffrage program did enlarge the base-voting population as well as affect the vote.

Votes cast for President show the greatest gain when measured by population and it shows the least amount of loss when voting population is the measuring device. The voting for Congressman shows the least gain and the greatest loss. In addition, smoothing the curves when voting population is the base brings the point on the first ordinate representing the vote cast for Congressman below the point representing the vote cast for President as was not the case when the absolute points are located on the first ordinate. There is a drop of 158 votes per 1,000 of the voting population in 1902 when compared with the election of 1900.

V. Registration

The number of registered voters in the State of California could not be accurately ascertained prior to 1912 with the result that this phase of our problem is strictly limited to the latter portion of the time period and to that portion of the time period in which women voted.

The first table presents the total number of registered voters and the number relative to population and to voting population. The second one presents and measures the trends of registration relative to population and to voting population.

STATE OF CALIFORNIA

Year	Registration per 1000 of		Total No. Registered in 000.
	Population	Voting Population	
1912	369	624	987.4
1914	410	690	1,219.4
1916	421	705	1,314.5
1918	375	622	1,203.9
1920	385	638	1,374.2
1922	364	602	1,532.4
1924	375	620	1,822.4
1926	365	604	1,912.9

	Values of "a," "a+nb," and "b" in equations of lines of best fit to	
	Registrations per 1,000 of Population	Registrations per 1,000 Voting Population
a	392	652
a+nb	374	624
b	—2.166	—4.66

"b"=Mean biennial change in votes cast per 1000 of population of voting population.

During these eight elections the registrations of voters in the state has varied from 36 per cent to 42 per cent of the population and from 60 per cent to 70 per cent of the voting population. Smoothing out these two series losses per bienniam appear with both of them. Neither is very large per period but 7 times —2.166 and —4.66 equals —15.162 and —29.62, respectively. These are not small losses over a sixteen-year period.

VI. Woman Suffrage

Since the adoption of the woman suffrage amendment in California which made it possible for the women to vote in the general election of 1912 and at all subsequent elections, the question of the effect of woman suffrage on voting has been repeatedly asked. To the author's knowledge it has not been answered. Some light may be thrown on the subject by an analysis of the voting behavior prior to the adoption of the amendment and an examination of the behavior since 1912.

When votes cast per 1,000 of the population is considered there is a distinct cut in the loss when considering the votes for President. The loss per four-year period is cut from —19 to —2, a nine-fold cut. In the case of Governor the opposite is true, *i. e.*, the loss is twice as great in the second period as in the first. Gains appear when the total period is considered, but losses when the period is broken into the two sections.

TABLE

STATE OF CALIFORNIA

	Voting behavior prior to and subsequent to the adoption of the woman suffrage amendment. Values of "b" in the equations of lines of best fit to			
	Votes cast per 1,000 of the population		Votes cast per 1,000 of the voting population	
	for President	for Governor	for President	for Governor
Total final 1900–1926	+18	+11	—31.3	—35.3
Before, i.e., 1900–1911	—19	—13	—80.5	—55.5
After, *i.e.*, 1912–1926	— 2	—26	— 6.6	—46.0

"b" = Mean quadrennial change.

On the other hand, when votes cast per 1,000 of the voting population is the base the loss per period is cut from —80.5 to —6.6, about a twelve-fold cut in loss of votes cast for President. The loss is also lessened in the case of votes cast for Governor. In three out of four situations there are reductions in the amounts of —"b's." The adoption of the suffrage amendment may not be the cause or even one of the causes but it is consonant with the adoption of the amendment. The expansion of this method may in the future give some valuable information concerning the effect of the adoption of woman suffrage on voting behavior in particular and on elections in general.

VII. STATE JUDICIARY

The series of total votes cast for Justices of the Supreme Court of the State of California was the only series which is at all adequate during the major portion of the period under consideration. The clerk of the Supreme Court was elected only in 1902–1906, and 1910. This series of three showed a mean change of —59 votes per 1,000 of voting population per four-year period, and a mean change of —15 votes per 1,000 of the population per four-year period. In the case of

the Justices of the Supreme Court, one or more of them were elected at every general election with the exception of the 1900, 1912, and 1916 elections. The trend when voting population is the base is distinctly downward. The mean biennial change is —25.8 votes per 1,000 of the voting population. The mean biennial change per 1,000 of the population is —0.5.

In comparison with the other series this one is found to be quite similar to the series of votes cast for the Superintendent of Public Instruction. The means of the two series relative to voting population are 352 and 380, respectively. The values of "b" are —51.6 and —50.8. The mean of the two series relative to population are 167 and 171, while the values of "b" are —0.5 and —0.5. The voting relative to voting population for Justices of the Supreme Court has been distinctly less since 1918 when compared with the votes cast for the same office in the earlier portion of the period 1900–1926.

VIII. State, City and County Aggregates

In this section the results of the three studies are combined and compared. The trends of city, rural, and state voting were ascertained and measured in the case of votes cast for President and in the case of votes cast for Governor. Both were considered in relation to population and to voting population.

A precautionary is made to keep clear this part of the problem. Since all the cities and all the counties were included in the first and second studies the aggregate of votes cast by the cities included in the first study plus the aggregate of votes cast by the rural counties included in the second study does not equal the aggregate of votes cast in the state totals. Cities like Glendale, Merced, Red Bluff, Marysville and Ventura were not included in the first study. Counties like Imperial, San Diego, Ventura, San Joaquin, Sacramento, Los Angeles and others were not included in the study of rural voting.

The table which follows presents the results of this comparison of the three problems. The behavior of voting for President and Governor relative to population is presented in the first section of the table, while the behavior relative to voting population is presented in the second section.

TABLE

STATE OF CALIFORNIA
COMPARISON OF VOTES CAST

	Values of "a," "a+nb," and "b" in the equations of lines of best fit to					
	Votes cast per 1,000 of population for President			Votes cast per 1,000 of Voting Population for President		
	a	a+nb	b	a	a+nb	b
Aggregate of 22 cities	166	306	+23.4	595	403	—32.0
Aggregate of 23 counties	223	313	+15.0	662	476	—31.0
Aggregate of the State	181	288	+19.8	601	413	—31.3
	For Governor			For Governor		
Aggregate of 22 cities	142	247	+20.8	512	336	—29.2
Aggregate of 23 counties	230	318	+14.7	673	475	—33.0
Aggregate of the State	178	243	+10.8	558	346	—35.3

a=First ordinate (1900 or 1902).
a+nb=Last ordinate (1924 or 1926).
b=Mean quadrennial change in votes cast per 1,000 of population or voting population as the case may be.

Relative to population the following results should be especially noted. There has been a general increase in voting for both President and for Governor on the part of all three series. More uniformity appears in the early elections than in the later ones. The differences are more marked in the votes cast for Governor than for President. The city trends are both increasing at more rapid rates than the trends of the other units. As a general rule, the vote cast relative to population in the cities is smaller than the vote cast in the entire state and the vote cast in the rural districts is larger than for the entire state .

The following results are noted when voting population is the base. All six series show similar trends and the amount of decline is almost the same. The trends of votes cast for President are nearly parallel. The differences between trends is greatest in the case of rural votes and state votes cast for

Governor. The differences are least between the city and state lines representing the trends of votes cast for President. As a general rule, the state behavior appears to be between city and rural behavior. In addition the state points in the series are nearer to the corresponding points of the city series than to the rural.

The direction of the trend lines in the graphs is not as significant as the relative position of the lines and of the points. The direction of the trend lines presents the behavior during this period but it does not give one a basis for predicting future behavoir. On the other hand, the general scheme of relationships between the three series of points may, after further study, aid in verifying a law of political behavior heretofore mentioned—namely, the quantity of votes cast varies inversely with the quantity of the voting population—the larger the voting population the smaller the relative vote cast.

CONCLUSIONS

Conclusions drawn from this study and the preceding ones apply primarily as heretofore stated, to the cities and rural counties of California and to the State of California. They apply to the period 1900–1925 or 1926 and for the various offices and measures studied. These conclusions apply to other states, other units, other periods of time and to other offices and measures just to the extent that these factors already considered are representative of other places, times or units. Two studies are being made at the present time to test the representativeness of the behavior in the general elections of California from 1900 to 1926. The first is a study of voting behavior at California primaries. The second is a study of the voting behavior of the forty-eight states regarding the presidential electors in the elections from 1880 to and including the election of 1928.

Subject them to these qualifications and limitations the following conclusions are presented.

1. The trend in absolute voting has been upward during this period for all offices and measures in the state at large as well as in the cities and rural districts.

2. The trend in votes cast per 1,000 of the population has been downward during that portion of the period prior to the adoption of woman suffrage (1900–1912).

3. The trend in votes cast per 1,000 of the voting population has been distinctly downward during the period under consideration.

4. The largest amount of votes cast has been for President in the presidential elections and for Governor in the gubernatorial ones.

5. The differences between the votes cast for the various state offices and measures varies from election to election. The amounts of variation are larger at the end of the period when compared with the differences at the beginning of the period.

6. From the standpoint of absolute voting, the larger the population and voting population of the unit the larger the vote cast at a given election.

7. While cities seem to be more interested in presidential elections and to a certain extent the rural districts more concerned with gubernatorial ones, the State of California is in general more deeply interested in national or presidential elections.

8. More interest appears in voting for the state political officers (Governor, Lieutenant-Governor, and Secretary of State) than for the state finance offices (Treasurer and Comptroller). More interest appears in the state finance offices than in the administrative offices (Attorney General, Surveyor General and Superintendent of Public Instruction). The same interest appears in the two finance offices. Similar interest is evident for the finance and administrative offices at the beginning of the period but distinct differences develop by the time the 1926 election takes place.

9. Losses of interest are greater in the administrative than in the political offices. The further down the list the greater the losses per period.

10. Less interest is shown in the amendments to the State Constitution than in the third administrative office until 1914. The introduction of the prohibition problem into the California ballot resulted in amendments becoming a more prominent factor. Since 1914 some of these have been as important in general as the political offices.

11. There has been less interest in the judicial amendments than in the administrative offices.

12. There has been during this period, relatively speaking, little interest in constitutional conventions.

13. There is more interest in Congress in presidential years than in gubernatorial ones.

14. There is more interest in the election of United States Senator than for Congressman. In three of the five occasions there was more interest in Senator than in the most important measure. (By most important measure is meant that measure which gained the largest number of votes.)

15. The registration of voters has followed rather closely changes in the population and the voting population in the state.

16. There are some indications which point toward the adoption of woman suffrage as reducing the decline in voting behavior. The decline in voting relative to population and voting population has been smaller since 1912 than prior to 1912.

17. Perhaps administrative officers might be appointed if the interest in their election continues to decline.

18. When the voting population is the basis of comparison the trend lines of city, rural and state voting are nearly parallel. The rural trend line is the highest of the three on the graph, the city trend line is the lowest. The suggested law of voting behavior—the larger the city the smaller the vote relative to voting population—appears again in this study. The trend line for the state appears between the city and the rural trend lines, increasing our confidence in the validity of this law of voting behavior. (Is this a universal law? We do not know, but we are going to continue to attack the problem.)

19. The trend lines do not give us bases to prognosticate the future behavior, they do give us a picture of the behavior during the period under consideration.

A part of the value of these studies is that additional problems are opened up to the student of political science.

Careful studies of voting behavior should be made of other states and of other countries in order that the universality of this possible law of voting behavior may be tested. Two other

studies now being made are the effect of the amount of rainfall at election time on voting behavior, and the effect of density of population and voting population on voting behavior.

Knowing something of the behavior of voters in California during this period an introductory study of causes might now be in order. Why does the quantity of the vote cast vary inversely with size or quantity of the voting population and to a lesser degree of the population? Why has there been a decline in this period?

Other problems need to be considered, such as the number of candidates running for the various offices, the effect of the party situation in California, and behavior in metropolitan areas. The relations between democracy and growth of population of political units continues unsolved.

And finally a technique needs to be developed in order that behavior may be further studied and in order that causes may be evaluated and related to the behavior.

Much remains to be done; the surface has just been scratched.

MINING DISTRICT DECAY IN THE SOUTHWEST

BY JAS. D. HILL

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The "mining district" of the old West, as even the casual reader of western history knows, was not a term to be applied to a vague and indefinite area in which ore had been found or was being mined. In its true western use it indicated a "quasi-municipal organization"[1] that provided the machinery of government for maintaining social control within the early mining town.

Since this paper is an effort to show how the mining district as a political unit fell into decay in the Southwest, a brief survey of its origin in the older mining states will not be amiss.

In 1848 nearly all the Pacific slope and the land east of the continental divide to the Missouri River was in public domain. It was so thinly populated that the National Government had made no effort to establish over the entire region the familiar territorial form of government that had its origin in the Ordinance of 1787. In those parts of the country that were acquired under the Treaty of Guadalupe Hidalgo, practically all the machinery of the old Mexican provincial governments was retained for the time being. This was the state of affairs when gold was discovered at Sutter's Fort in California, and the subsequent flood of gold seekers reached that state.

As most of the land on which gold or silver was found was in public domain, the treasure-mad miners at once assumed the right to possess by claim, occupy and remove minerals, by virtue of discovery, from any land. The only vestige of the National Government was in the form of army officers and their scattered cavalry detachments, who were kept so busy trying to maintain a semblance of order that they were in no position to challenge these assumed rights of the prospectors. Thus the miners were left to their own devices, without an applicable code of laws to guide them and without restraint from any government. In spite of the fact that

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[1]Costigan, G. P., *Mining Law*, p. 300.

most of these hardy frontiersmen are represented in history and fiction as having been ardent exponents of the might-makes-right doctrine, they felt a need for some sort of regulations and government under which the fundamental rights of the individual would be, to some extent, protected. To fill this need, the mining district came into being.

There was no set method for the organization of a district. With the exception of Wyoming, no state in the Union has ever made any attempt to prescribe the manner in which a district should be created.[2] For the most part, they came into being with very little formality. In the natural course of events, the news of a strike would attract hundreds of other prospectors, who, if an organization had not already been perfected by the two or three men making the find, would assemble in a sort of mass meeting and agree upon certain rules and regulations as to the size of the claim that each man could work, how long it could be held and under what conditions it was subject to forfeiture. In the regions where the territorial government had not been established or was functioning weakly, it was not unusual for a veritable little criminal code governing the conduct of the miners in that particular district to be drawn up and accepted.

As stated, there was no minimum placed upon the number of men present at the initial organization, but in case of repeals and amendments, no matter who the organizers might have been, it was understood that every man (except, in some cases, Chinamen and Negroes) had a right to vote and voice his opinions as he saw fit. A conspicuously posted notice, stating the date, place, and purpose of a meeting was sufficient to put the entire legislative machinery in motion. For the administration of the "code," officers were always elected. In the typical district they were called the justice of the peace, constable, and recorder.

These were the conditions under which the mining district governments budded and reached full bloom during the 'sixties. At this stage their scope was unlimited. They stated the titles, manner of election, terms of office, and duties of the officials; prescribed the manner of administration; put teeth

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[2]Lindley, C. H., *Lindley on Mines*, Vol. I, Sec. 269.

in their criminal codes with such penalties as whipping, forfeiture of claims, banishment, and death; and went to great length and detail concerning the manner of marking claims, distribution of water rights, and the settlement of disputes arising therefrom. Some of these regulations fill fifteen or twenty printed pages.[3]

Compared to the pretentious and extensive (though sometimes not extensive enough, as some lawsuits proved) articles of government drawn up for the regulation of these early districts, those of New Mexico make a very pathetic and sorry showing indeed. Let us consider three, taken from the records of Socorro County, that are typical of others examined in neighboring counties. In fact, one of the districts referred to below is now in Catron County, which, like a number of adjoining counties, was carved from the one time enormous Socorro.

SAN ANDREAS MINING DISTRICT.—In pursuance of a call, a miners' meeting for the purpose of forming a district was held at six o'clock at the Good Fortune Spring, San Andreas Mountains, Socorro County, New Mexico, on the 1st day of October, 1881. There were present Alvin Phillips, James Cole, B. D. Heath, Thos. A. Holland, J. D. Carr, J. P. Taylor and J. H. Miller. Alvin Phillips was elected secretary.

1. Voted that the district be called the San Andreas Mining District.

2. Voted that the district shall have the following boundaries: On the south by Antelope canon; on the west by Jornada del Muerto; on the east by Gypsum Plains.

3. Voted that the United States and territorial laws be adopted as the laws of the district.

4. Voted that a recorder for the district be elected by ballot, whose term of office shall be one year and whose fee

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[3]Those interested in mining camp legislation during this stage should not overlook Dr. T. M. Marshall's excellent contributions on the Colorado districts. See his *Early Records of Gilpin County*, University of Colorado Historical Collections, Vol. II, 1920. Also, "The Miners' Laws of Colorado, *American Historical Review*, Vol. XXV, 1920, pp. 426–439. A copy of the rules of the Gold Hill District, Nevada, made famous by the Comstock Lode, may be found in any good law office. See "Kinney vs. Virginia Consolidated Mining Company," *Federal Cases, Circuit and District, 1789–1881*, Vol. XIV, Case 7,827.

for recording shall be 25 cents for each claim recorded. A ballot was taken and J. H. Miller was declared elected.

J. H. MILLER, Sec.[4]

The record of the meeting at which the Iron Mountain Mining District was organized is very similar to the one above. It is as follows:

IRON MOUNTAIN MINING DISTRICT.—In pursuance of a call, a miners' meeting for the purpose of forming a district was held in Spring Gulch, County of Socorro, Territory of New Mexico, on the 23d day of May, 1881. There were present: W. V. Hill, J. J. Bowles, W. W. Tweed, R. C. Davis, S. K. White, R. M. White, David Carr, H. Overton, Geo. Nodine, J. B. Johnson, C. T. Brown, John Brady. W. V. Hill was elected chairman and R. M. White was elected secretary.

1. Moved and seconded that the district be called the Iron Mountain District. Carried.
2. Moved and seconded that the Iron Mountain Mining District have the following boundaries: Beginning at the northwest corner of the Pueblo Mining District, running thence northerly to Bear Spring, thence westerly to most northwest peak of Gallinas, thence southerly along the western base of the three mountains to the beginning. Carried.
3. Moved and seconded that the rock on the northerly side of Spring Gulch above old mines be called Council Rock. Carried.
4. Moved and seconded that the recorder of Socorro County be ex officio recorder of the Iron Mountain District. Carried.
5. Moved and seconded that a committee be appointed to locate water, also a townsite, in the interest of all those present. Carried. The chairman appointed Messrs. Carr, Nodine and Tweed as a committee to locate water and townsite.
6. Moved and seconded that the town be called Council Rock. Carried.
7. Moved and seconded that the meeting be adjourned sine die.

RICHARD MANSEFIELD WHITE, Secretary.[5]

The booms that gave birth to the foregoing documents ran their brief course and soon the two districts were all but forgotten; but the Cooney District, which brought into being

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[4]*Socorro County Records*, Book IV, p. 456.
[5]*Socorro County Records*, Book II, p. 425.

the regulations that follow, has long been a famous producing area. Its silver bar lode was once considered a worthy rival of the Comstock deposits.

COONEY MINING DISTRICT.—At a meeting of the so-called Cooney Mining District, notice of said meeting having been duly and legally posted in a conspicuous place in same district to be held at the cabin of Messrs. Oring and Underwood on Copper Creek in said district at seven o'clock p. m. on the 4th day of April, 1881. Mr. Walter Myers being elected chairman of said meeting and Mr. C. P. Flint secretary of same. . . . the following resolutions and enactments were adopted, viz.:

1. That the metes and bounds of the Cooney Mining District, that name having been adopted, and said district being situated in the southwest corner of Socorro County (now in Catron County) and on the northwest slope of Mogollon Mountains, to extend from White Water Creek as its south line and from a point from it distant one mile from an imaginary line drawn south from Silver Peak thence east to top of divide from the east slope of same mountains, thence north along said divide to a point east from head of Devil's Creek as its north boundary to a point one mile drawn north from Silver Peak, thence turning and running south to point of beginning.

2. It being moved that the price of underground work be fixed at a stipulated rate and that no Mexican laborers be allowed to come in competition below such price. Upon consideration it was moved and seconded that such action was premature.

3. It was moved and seconded that all mining location transfers of mining property, mortgages, etc., in said district be recorded in the office of the recorder for said Cooney Mining District.

4. It was moved and seconded that on all locations on assessment work of ten feet in blasting ground and fifteen feet in picking ground, or work sufficient at $4 a day, dimensions of such work shall be four feet by six and not less, such being considered an equivalent for $100 worth of work, and that such assessment shall be done in ninety days from date of location. Noncompliance with which shall be sufficient cause for relocation by other parties.

5. It was moved and seconded that the fees for recording locations certificates in the district shall be $1 for each and every certificate, and for all transfers of mining property, whether by deed or mortgage, a rate of 25 cents for every 100 words.

6. That the record of this meeting be written in the books of the recorder's office of this district and also in the recorder's office in the County of Socorro.
7. That a copy of the minutes of this meeting be forwarded to the General Land Office at Washington for correction and approval.
8. The meeting be adjourned, sine die.

W. R. MYERS, Chairman,
C. P. Flint, Sec.[6]

After the first brief inspection, one hesitates to put any one of the three foregoing instruments in the same generic group of documents as the regulations of the Gold Hill, Jacksonville, or Gilpin county districts,[7] yet a close inspection reveals a number of points in common. The salient characteristics found in all are: The manner of organization; the boundaries of all are fairly well established; an official, or officials, is elected, and provision is made for keeping the records. Nevertheless, the sketchy nature of the above regulations in comparison to the older codes speaks eloquently of the low estate to which the one-time unrestrained quasi-municipal organizations had fallen. The reason for this decay is obvious, but it is more specifically expressed in item three of the San Andreas and item seven of the Cooney regulations. To-wit: "3. Voted that the United States and territorial laws be adopted as the laws of this district." And "7. That a copy of the minutes of this meeting be forwarded to the General Land Office for correction and approval." Apparently the San Andreas men in deciding to *adopt* the laws of the Territory and the United States for their petty domain felt that their sovereignty was supreme in the field of mining legislation, but merely wanted to simplify matters by accepting the standardized codes. The authors of the Cooney regulations came nearer having the true conception as to the status of their district. Perhaps there was a man of some legal training present in the latter case.

To state the matter more clearly, the territorial and Federal Governments had, between the rise of the older districts and the advent of the above more recent organizations, established control to such an extent that by 1881 the functions

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[6]*Ibid.*, p. 306.
[7]See footnote 3, above.

of the old mining district governments had been all but completely usurped.

This usurpation by the Federal Government was gradual at first. When Congress took steps toward passing legislation concerning western mining rights in 1866, it found the mining district codes so firmly fixed in actual practice that no effort was made to change them materially. About all that was done was legislation to the effect that district rules should be reasonable.[8]

In the Act of 1872, however, though continued recognition was given to the mining district method of regulating local affairs, it was enacted that "the miners of each mining district may make regulations, not in conflict with the laws of the United States, or with the laws of the state or territory in which the district is situated, governing the location, manner of recording and the amount of work necessary to hold possession of a mining claim, subject to the following requirements: . . . ."[9] (Legislation relative to markings, etc., follows.)

This act, and the establishment of well-functioning territorial and state governments, with their subsequent mining codes supplementing that of the Federal Government, sounded the death knell of the mining district as a unit of government. It had served its purpose.

At once the question arises as to why the prospectors and miners should continue to organize districts when there was obviously no need for such. Custom and tradition constitute, perhaps, the most obvious reason for the maintenance of the hollow shell of the erstwhile quasi-municipal governments. Even today, one occasionally meets a prospector of the old school who labors under a vague impression that a claim in a definitely organized district has a tone of validity not inherent in one located in the ordinary open spaces.

Mr. C. T. Brown, veteran miner, prospector, engineer, late regent of the New Mexico School of Mines, and whose name, by the way, may be noted among those of the organizers of the Iron Mountain District, gave three utilitarian reasons for

[8]Costigan, G. P., *op. cit.*, p. 301.

[9]*Revised Statutes of the United States*, Sec. 2,324.

the continuance of the custom when he was interviewed on the subject.

He pointed out that the presence of an official recorder in the district eliminated long horseback rides to a distant county courthouse. This must be accepted as a valid excuse for such an organization in spite of the fact that one readily notices that Mr. Brown and his colleagues waived this convenience with the writing of item four of their regulations. The naming of the minor variations of the terrain in the district was given as another justification for clinging to the custom. Without such generally accepted designations the corners of each claim could not be so clearly and effectively "tied" when the property was being described in legal documents and records. Furthermore, declared Mr. Brown, a district was sometimes organized primarily to attract attention. Such a meeting was sure to receive proper notice in the press of the region and would sometimes precipitate a "rush," thereby creating a market for claims already staked out by the organizers, not to mention a demand for housing lots and business locations in the embyronic camp that had been laid out and divided among the early arrivals.

In short, the districts as a governmental unit had degenerated into a preliminary "mass meeting" for picking a recorder, christening the landscape and staging, at the same time, a frontier real estate publicity stunt. Truly, by 1881, the decay was complete.

AMENDING THE ARKANSAS CONSTITUTION*

BY JOHN S. STRAHORN, JR.

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I

Normally, the machinery for amending a State Constitution is not complicated. A few mandatory requirements are to be complied with strictly, and a fewer permissive ones are to have reasonable satisfaction in order to achieve the amendment. The real problem is the political one of securing the vote.

Under the existing Arkansas Constitution it is not such an easy matter. The situation is, or was, rather involved. The original document had its provision permitting amendment. Since then, two different initiative and referendum plans have been adopted, each of which has in turn provided a mode of proposing amendments, each different in detail.

The worst phase of the situation is that the Supreme Court of the State has reversed itself on the important question of the popular majority necessary to adopt an amendment. The result of this is that a half dozen or so amendments, voted on and declared rejected, have found themselves to be in effect after from two to twelve years dormancy. Thus the situation will bear scrutiny, in order to determine what is and what is not a valid amendment to the Arkansas Constitution, and why.

Arkansas is now functioning under its fifth State Constitution. In the first three, the Admission one of 1836,[1] the Secession one of 1861,[2] and the First Reconstruction one of

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*Research Paper No. 120, Journal Series, University of Arkansas.

[1]Constitution of 1836, Article IV, Section 35. Crawford and Moses Digest, p. 148.

[2]Constitution of 1861, Article IV, Section 24, C. and M., p. 160. It is not the purpose of this paper to discuss the question of whether the 1861 Constitution ever had a lawful existence. Let it suffice to say that the Supreme Court wavered on the question and reversed itself twice, holding that Constitution valid in Hawkins vs. Filkins, 1866, 24 Ark. 286, reversing that case in Penn vs. Tolleson, 1871, 26 Ark. 545, and finally re-affirming Hawkins vs. Filkins in Berry vs. Bellows, 1875, 30 Ark. 198.

1864,[3] the provision for amendments was the same. The approval of two-thirds of both houses of two successive General Assemblies was required and also that the proposition be published three times in every newspaper in the state twelve months before the intervening election for the legislature. No submission of the proposition itself to the people was provided for.

The Second Reconstruction Constitution, in 1868,[4] reduced the necessary legislative vote to a bare majority of two successive houses and added a requirement of popular approval of the measure at the polls at the election following the second legislature. This first instance of popular assent to the amendment required a majority of those qualified to vote for the General Assembly to approve the measure.

The present Constitution, that of 1874, simplified the process in the original provision for amendments.[5] A majority of the full membership of each house at one session of the General Assembly,—if the yeas and nays are entered on the journals,—can propose an amendment. Not more than three such measures can be proposed at one session. They are to be published once in each county six months before the next general election. If they receive a majority of the votes cast at such election, they become a part of the Constitution.

II

Under the amending clause of the 1874 Constitution, as under its first initiative and referendum amendment, the most difficult question about adopting amendments was that of the majority necessary to approve a measure. Two solutions were possible, either a bare majority of the votes cast on the measure, or a majority of all those voting at the election in question, including those not voting on amendments. If the latter, indifference could easily kill a proposition; if the former, it could not.

The original clause required a "majority of the electors voting at such election." When the first proposed amend-

[3]Constitution of 1864, Article IV, Section 33, C. and M., p. 171.
[4]Constitution of 1868, Article XIII, C. and M., p. 191.
[5]Constitution of 1874, Article XIX, Section 22, C. and M., p. 115.

ment[6] was submitted and the vote cast, it was disclosed that the measure had received a majority of the votes cast on it and a majority of the votes cast for the statewide offices, but not a majority of the total votes cast at the election. The Secretary of State, who was then charged with the duty of passing on such proposals, declared it rejected.

In 1883 two things happened. First, the measure was resubmitted, and next, a new statute to provide for the procedure of adopting amendments was passed.[7] This made it the duty of the Speaker of the House of Representatives to decide whether or not an amendment had been adopted. He was to proceed on the basis of the number of votes cast for the statewide offices, election to which he was decide at the same time. The effect of this was to make an amendment pass where it did not actually receive a majority of the total number of votes actually cast at the election. The proposed amendment passed[8] at the ensuing election by a complete majority, making it unnecessary to decide then the validity of the 1883 statute.

Judicial solution of the problem was inevitable. An amendment was proposed permitting the Governor to fill certain vacancies by appointment.[9] It received a majority of the votes cast on the measure but fell short of a majority of the votes for statewide office or the total vote. The Speaker declared it adopted, probably to force an adjudication of the question by the Supreme Court. The case of *Rice vs. Palmer*[10] presented

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[6] 1880, Holford Bond Amendment. Acts 1879, p. 149. In this paper the proposed amendments will be cited in the following manner: Date voted on, popular name, book and page where may be found. The latter citation will be to one of three sources, either Crawford and Moses *Digest of the Statutes* (1921), (C. and M.) or Castle's supplement thereto (1927) or to the Acts of the Arkansas Legislature. For initiated proposals which have been defeated, no permanent printed source seems available.

[7] Acts of 1883, p. 70. Now C. and M., Section S, 1,480–1,482.

[8] 1884, Holford Bond Amendment, C. and M., p. 128.

[9] 1894–Acts of 1893, p. 360.

[10] 1906, 78, Ark. 432, 96 S.W. 396. This was a close case; Chief Justice Hill wrote the opinion, which was fully concurred in by Justices Battle and Wood. Justice McCullough dissented on two grounds, first that a bare majority was all that was required to approve an amendment, and next, that the decision by the Speaker as to its adoption was conclusive. Justice Riddick concurred in the result on the ground that no vacancy

the question of its validity to the court and the court there held that the 1874 Constitution required a majority of the voters voting at the election to approve, hence the proposition was not law. Still it did not decide the validity of the 1883 statute since that question was not there presented.

However, that question was presented to them in *St. Louis Southwestern Railway vs. Kavanaugh*[11] which was decided at the same time. It involved the 1898 road tax amendment[12] which had been approved by a majority of those voting for statewide office, but which had fallen short of a majority of the total vote. The court held the amendment adopted, ruling that the effect of the 1883 statute was to make the vote cast for statewide offices the criterion for determining the "total vote cast." It upheld the constitutionality of a statute to this end on the ground that it was within the legislative province to pass reasonable rules of evidence as to the determination of cogent facts.

The upshot of the situation under the 1874 Constitution was that a majority of all voting at an election was theoretically required, but this was translated into a majority of the highest vote for statewide office by a valid statute, passed to regulate the procedure of adopting the amendments. The rule was reasonable enough in that it gave the Speaker a standard easily ascertainable at the time he was charged with the duty of deciding the question.

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existed in the office, but dissented from so much of the opinion as required a majority of the total vote. Thus the vote stood three to two on the question of the necessary majority.

The court has passed on somewhat the same situation since then, with reference to the necessary majority for local votes on taxes and removal of county seats. In Vance vs. Austell, 1885, 45 Ark. 400, "majority of the qualified voters of the county" was held to be a majority of those voting on the question of removing the county seat. in Watts vs. Bryan, 1922, 153 Ark. 313, 240 S.W. 405, "majority of the qualified electors" was held to mean a majority of those voting on the question of levying a county road tax. It seems hard to consider these cases consistent with Rice vs. Palmer.

[11]1906, 78 Ark. 468, 96 S.W. 409. The amendment had received 57,209 votes, with 24,079 cast against it. The vote for Governor was 111,897. Those opposing the amendment offered to show that that 116,378 votes all told were cast in the election.

[12]1898, Three mill county road tax, C. and M., p. 129.

The unfortunate part of it was that there was required more than a majority of the votes cast on the measure, with the result that indifference was capable of administering defeat to progress and reform. That this was undesirable is indicated by the figures on the amendments proposed while this rule was in effect. During this time, up to and including the 1910 election, sixteen propositions were voted on, six were approved, three decisively defeated, and seven defeated by indifference.[13]

This situation, unfortunate though it was, remained until 1910 when the first initiative and referendum plan was adopted. This permitted the initiation of laws and amendments by a petition of 8 per cent of the voters. The measures were to be adopted when approved by a "majority of the votes cast thereon." At first sight this looked like an alteration of the rule of *Rice vs. Palmer* and the 1883 statute, with the resulting more reasonable rule of the bare majority of the votes cast on the measure.

But the court held otherwise in *Hildreth vs. Taylor*.[14] It decided that "majority of the votes cast thereon" applied only to popular action on ordinary legislation and that the rule of *Rice vs. Palmer* was preserved for amendments even though proposed by the initiative. Thus, for the time, amendments could still be killed by indifference.

From the time of the first initiative plan up to and including the 1924 election, twenty-three proposed amendments were put

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[13]The six approved were: 1884, Holford Bond Amendment; 1908, Regulation of transportation rates, C. and M., p. 128; 1898, Three mill road tax; 1906, Seven mill school tax, C. and M., p. 130; 1908, Poll tax, C. and M., p. 130; 1910, First Initiative and Referendum, C. and M., p. 131. The three decisively defeated were: 1894, Quorum courts to levy taxes; Acts 1893, p. 359; 1904, To increase Supreme Court, Acts 1903, p. 402; 1908, Local bond issues, Acts 1907, p. 1,257.

The seven defeated by indifference were: 1880, Holford Bond Amendment; 1894, Governor to fill local vacancies; 1900, Corporate sureties on official bonds, C. and M., p. 129; 1902, Mileage and per diem of legislature, Acts 1901, p. 412; 1904, Local bond issues, Acts 1903, p. 484; 1910, Cotton mills tax exempt, Acts 1909, p. 1,238; 1892, First poll tax, Acts 1891, p. 314.

[14]1915, 117 Ark. 465, 175 S.W. 40, ruling on the validity of: 1914, Cities and towns to issue bonds for improvements.

on the ballot and of these, two passed, eight were decisively defeated, and thirteen were apparently killed by indifference.[15]

Two of the amendments voted on at the 1924 election and apparently defeated by indifference brought the situation into the courts again. One permitted an increase in the membership and salary of the Supreme Court and the other authorized bond issues for local debts. A case was brought to test the validity of the latter and it reached the Supreme Court.[16] That body disqualified itself, on the ground that to decide the question would also be to decide as to the amendment increasing their own salaries.

Governor Terral appointed a special Supreme Court consisting of Former Governor McRae, Special Chief Justice, and Messrs. Arnold, Craven, Coleman, and Mann, Special Justices. They, by a three to two decision, Coleman and Mann dissenting, decided the case in favor of the validity of the bond amendment, thereby validating the Supreme Court amendment, also.

They reached that result in this manner: They reversed *Hildreth vs. Taylor,* holding that policy demanded a declara-

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[15]*The two thus passed were:* 1912, Mileage, per diem and sixty-day session of the legislature, C. and M., p. 132; 1916, Twelve mill school tax, C. and M., p. 133.

The eight decisively defeated were: 1912, Educational qualification for voting, Special Acts 1911, p, 1,357; 1914, To fix salaries of legislators, Acts 1913, p. 1,526; 1916, Initiative and referendum; 1918, To increase the Supreme Court, Acts 1917, p. 2,273; 1918, State Farm Loans, Acts 1917, p. 2,266; 1922, Initiative and referendum; 1922, To increase school revenues; 1922, To tax personal property, Acts 1921, p. 762.

The Thirteen thus apparently defeated by indifference were: 1912, Cotton mills tax exempt, Special Acts 1911, p. 1,358; 1912, Recall of elective officers (void also because in excess of three); 1912, Cities and towns to issue bonds (void also because in excess of three); 1914, Cities and towns to issue bonds (Initiated); 1914, Lieutenant-Governor, Castle's Supplement, p. 23; 1916, Three mill county road tax, Acts, 1915, p, 1,491; 1918, Municipal Improvement Bonds; 1920, Initative and referendum better defined, Castle's Supplement, p. 15; 1920, Increase Supreme Court to seven, Acts of 1919, p. 490; 1920, Equal suffrage, Castle's Supplement, p. 22; 1924, Increase Supreme Court to seven, Castle's Supplement, p. 14; 1924, Local bond issues for debts, Castle's Supplement, p. 14; 1924, To prohibit local legislation (void also because yeas and nays not entered on legislative journals), Acts 1925, p. 1,088.

[16]Brickhouse vs. Hill, 1925, 167 Ark. 513, 268 S.W. 865.

tion that said case was wrong, and thereby declaring that the rule of *Rice vs. Palmer* was affected by the 1910 initiative plan. The result was that for amendments proposed after 1910 by the initiative method, a bare majority was sufficient.

This validated the second initiative and referendum plan voted on in 1920 and apparently killed by indifference. This was a departure from the 1910 plan, in that it expressly declared that a bare majority would suffice for all amendments, no matter how submitted, required 10 per cent on the petition, and provided that any number of amendments could be proposed at one time by the initiative method.

Thus, the two amendments in question, voted on in 1924, had passed by the rule of the 1920 plan. So, *Brickhouse vs. Hill* gave life to three amendments which had been voted on, apparently killed by indifference, and actually in a state of suspended animation.[17]

The Brickhouse case only affected those amendments proposed by initiative plan between 1910 and 1920, leaving untouched those proposed by the legislature and apparently killed by indifference. But soon after, the regular Supreme Court, in *Combs vs. Gray*[18] decided that the 1910 initiative plan had changed the rule as to all proposals, no matter how submitted. So, two more amendments were revived.[19] The rule of *Rice vs.*

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[17]Amendments revived by the Brickhouse case were: 1920, Initiative and referendum, and this, by its terms validated other amendments; 1924, To increase Supreme Court to seven; 1924, Local bond issue for debts. Other amendments, voted on before 1920, and which the doctrine of the Brickhouse case would have revived, were invalid either because of repeal or of technical defects. They are: 1912, Recall of elective officers (invalid because of being in excess of three); 1912, Cities and towns to issue bonds (invalid because in excess of three, and probably also repealed by 1924, Local bond issues for debts); 1914, Cities and towns to issue bonds (probably repealed by 1924, local bond issues for debts); 1918–Municipal Improvement Bonds, (repealed by 1924–Local bond issues for debts, as decided in Babb vs. Eldorado, 1926, 170 Ark. 10).

[18]1926, 170 Ark. 956, 281 S.W. 918.

[19]Amendments revived by the Combs case were: 1914, Lieutenant Governor, and 1920, Equal suffrage. Others would have been revived, but were no longer in effect because of repeal or technicality. They are: 1912, Cotton mills tax exempt (repealed by 1926, Cotton mills tax exempt); 1916, Three mill county tax for roads (probably repealed by 1924, Local bond issues); 1920, Increase Supreme Court to seven (repealed by 1924, Increase Supreme Court to seven).

Palmer was preserved for those propositions killed by indifference before 1910.

The present status of the machinery for amending the Arkansas Constitution is that the legislature may submit not more than three amendments at one time, and 10 per cent of the voters may submit as many more as they please. Any of them which receives a majority of the votes cast thereon will be passed. Inasmuch as several amendments to the same end were submitted during the period 1912–1924, some intricate problems of repeal and substitution are presented, where two or more amendments of the same nature were actually adopted but held in suspended animation.

Since the problem has been solved for the future by the Brickhouse and Combs cases, eight amendments have been put on the ballot, four in 1926[20] and four in 1928,[21] all of which have been passed by the rule in force since the validation of the 1920 plan. Thus it may be seen, as compared with the figures on approval and rejection before the Brickhouse and Combs cases, that it is much easier to amend the Arkansas Constitution today than ever before.

III

The major problem in connection with the mode of amending the Arkansas Constitution has been that of the necessary majority. But other matters with reference thereto have been the subject of judicial investigation. It seems that most of the stated requirements of the various amending clauses have been passed on by the Supreme Court of the state.

Are there any inherent limitations on the scope of the amending power to be found under the original document and the initiative plan? The Supreme Court of the United States has had occasion recently to deal with a similar problem under

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[20]They are: 1926, Eighteen mill school tax, Castle's Supplement, p. 20; 1926, Cotton mills tax exempt, Castle, p. 20; 1926, Municipal improvement bonds, Castle, p. 20; 1926, To prohibit local and special legislation, Castle's Supplement, p. 22 .

[21]They are: 1928, To raise salaries of legislators and other officers, Acts 1927, p. 1,189; 1928, Verdict by nine jurors in civil cases, Acts 1927, p. 1,190; 1928, Local votes on building courthouses and jails, Acts 1927, p, 1,192; 1928, Industrial tax for Little Rock (initiated by petition).

the Federal Constitution and has as yet found none.[22] Arkansas has passed on the problem of whether the Declaration of Rights, the most fundamental part of the Constitution, can be amended, and its court has reversed itself. *State vs. Cox*[23] decided under the 1836 Constitution, held in favor of the validity of an amendment which limited the right to trial by jury. This conclusion was reversed in *Eason vs. State*[24] which laid down the doctrine that the Declaration of Rights was unamendable.

The present status of the latter case may have a chance to be tested, now that one of the amendments[25] put on the ballot in 1928 has been adopted. It is suggested here that the Eason case will not be followed now, for the reason that it was decided at a time when the people had no direct say in the adoption of amendments, while they do today. The language of the Eason case[26] seems to indicate that the only reason for the result was that the people had no opportunity to express themselves. A departure from the result of the case would be explicable and consistent with the case itself.

The amending clause of the 1874 Constitution requires for amendments submitted by the Legislature, the yeas and nays signifying the majority of the elected membership of each House to be entered on the journals. This requirement was held to be mandatory in *McAdams vs. Henley*,[27] a case which invalidated the first special legislation amendment to be passed.

The Legislature has always been limited to three proposed amendments at one time, and before 1920, to not more than three of both legislative and initiated propositions combined.[28]

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[22]With reference to the Eighteenth Amendment, held a valid exercise of the amending power in Rhode Island vs. Palmer, 1920, 253 U.S., 350, 64 LE 946, 40 S.C. 486; and the nineteenth, held valid in Leser vs. Garnett, 1922–258 U.S. 130, 66 LE 505, 42 S.C. 217.

[23]1848, 8 Ark. 436.

[24]1851, 11 Ark. 481.

[25]1928, Nine-man jury verdict in civil cases, Acts 1927, p. 1,190.

[26]11 Ark. 481 at 492.

[27]1925, 169 Ark. 97, 273 S.W. 355.

[28]State ex rel Little Rock vs. Donaghey, 1912, 106 Ark. 56, 152 S.W. 746.

Four propositions have passed through both houses and yet were not submitted because they were in excess of the permitted three.[29]

The 1927 legislature made an apparently futile attempt to remove this limitation by its own action, in amending the statutes providing for the machinery of amendments.[30]

Under the Act of 1879 providing the statutory machinery for amendments, the approval of the Governor was necessary to an amendment proposed by the legislature, but it could be repassed by a simple majority over his veto. This requirement of executive approval was held unconstitutional in *Mitchell vs. Hopper*,[31] a case in accord with the Federal doctrine of Hollingsworth vs. Virginia.[32] The 1920 Initiative and Referendum plan expressly provides that the Governor's veto shall have no effect on any measure passed on by the people.[33]

The statutory procedure which steers the proposed amendment both before and after election differs according to whether it is one proposed by the legislature or one proposed by initiative petition.

For those proposed by the legislature, statutes passed in 1879, 1883, 1891, and 1927, and now incorporated into a single chapter of the statutory digest[34] E under the heading "Constitutional Amendments" takes care of the situation.

Those initiated under the 1920 plan are provided for by the statute of 1911[35] which is found in the statute digest under the

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[29]They are: Acts 1915, p. 1,501, Graduated Land Tax; Acts 1915, p. 1,492, Equal Suffrage; Acts 1917, p. 2,274, Board of Pardons; Acts 1919, p. 492, 12 Mill Road Tax. It seems to have been an open question as to whether these amendments should have been put on a waiting list and have been first in line and in turn at the next election to occur. Apparently they were not so placed nor was the question litigated. See Thomas, *Direct Legislation in Arkansas, 1914, 29 P. S. Quar.* 84 at 107.

[30]Acts 1927, p. 687. The Digester, Castle's Supplement, p. 100 states this to be an attempt to amend the Constitution by simple legislation.

[31]1922, 153 Ark. 515, 241, S.W. 10, invalidating Crawford and Moses, Sections 1468-1470. This statute was repealed by Acts 1927, p. 687.

[32]1798, 3 Dallas 378, 1LE 644.

[33]Section 7, Castle's Supplement, p. 17.

[34]Crawford and Moses Digest and Castle's Supplement, Sections 1466-1482.

[35]Acts of 1911, p. 582.

head of "Statutes."[36] This statute was passed for the 1910 plan and in the absence of one since 1920, has to serve for the second initiative and referendum plan, insofar as modified by the latter amendment itself.

The procedure for proposing amendments is of little interest, naturally varying according to whether legislative or initiated.[37] In either event, the proposition is filed with the Secretary of State who steers it from then on.

The time and manner of publication varies, according to whether legislative or initiated. If legislative, it must be published for six months in at least one paper in each county, and not in daily papers.[38] If initiated, only three months publication is required and apparently there is no limitation to weekly papers.[39]

The procedure for handling the election[40] is relatively unimportant and in either event the abstract of the result is passed through the Secretary of State to the Speaker of the House of Representatives who, in the presence of a joint session of both houses, declares the proposal adopted or rejected, returns a copy to the Secretary of State, and the Governor proclaims the amendment, if adopted.[41]

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[36]C. and M., Secs. 9760–9776.

[37]Constitution, Article XIX, Section 22, Crawford and Moses Digest and Castle's Supplement, Sections 1466–1468, 1472, cover the machinery for proposing legislative amendments. The 1920 Initiative amendment and Crawford and Moses Digest and Castle's Supplement, Sections 9760–9763, 9768–9772, provide for Initiated propositions.

[38]Crawford and Moses Digest and Castle's Supplement, Sections 1472–1476. The prohibition against publication in daily papers is statutory, and was apparently violated by publication of the nine-man verdict in civil cases amendment, in the *Fayetteville Democrat* for July 25, 1928.

[39]1920, Initiative and Referendum amendment, and Crawford and Moses Digest and Castle's Supplement, Section 9773. The 1920 amendment requires, in addition, that it shall be published in at least one paper once, at petitioners expense, before filing with the Secretary of State. Castles Supplement, p. 16. The case of Grant vs. Hardage, 1913, 106 Ark. 506, 153 S.W. 826, discusses the conflict in provisions for publication between legislative and initiated amendments.

[40]Crawford and Moses Digest and Castle's Supplement, Sections 1477–1481 for legislative proposals and Sections 9744–9775 for initiated ones.

[41]Crawford and Moses Digest and Castle's Supplement, Sections 1481–1482 for legislative proposals, and Section 9775 for initiated ones.

While the Speaker of the House is charged with the duty of passing on the adoption or rejection of amendments, his action or inaction is by no means conclusive, for the courts have reversed him, one way or the other, in several instances in cases discussed heretofore.

IV

Forty-seven proposals to amend the 1874 Constitution have been placed on the ballot up to and including the 1928 election.[42] Of these, seventeen are admitted to have lawful existence at the present time. Nine others have had legal existence and have been repealed by subsequent amendments. Eleven of the ones which never existed failed to receive even a majority of the votes cast, and seven more, before 1910, failed because they did not receive a majority of the total vote. The remaining three have been invalidated for technical defects.

These forty-seven proposals can be grouped under eighteen heads, in that many of them are either re-enactments of other proposals or closely related thereto. Of these eighteen groups, thirteen include the seventeen existing amendments and related proposals, while five cover separate proposals which met permanent defeat.

Of these five, two, the plans permitting the taxation of personal property in improvement districts, in 1922, and providing for State Farm Loans in 1918, met decisive defeat by failing even to receive a majority on the measure. The plan

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Although the older statutes provide that amendments shall take effect from the filing of the copy in the Secretary of State's office after the Speaker's decision the 1920 Initiative and Referendum provides that they shall be in force thirty days after the election unless a different date is provided in the measure.

[42]They are listed with votes cast for and against, and other informing details, at pages 81–85 of the pamphlet edition of the Constitution, distributed by the Secretary of State of Arkansas. In this paper no numbers have been given to any of the existing amendments, for the reason that at least two different numberings are current, the one, in the Secretary of State's pamphlet, and the other in Crawford and Moses Digest and Castle's Supplement. Rather than further this confusion, the measures have been referred to only by date voted on and popular name.

for the recall of elective officers, in 1912, was invalidated by a technicality, and the other two received a majority of the votes cast on the measure, but not of the total vote. These two are the ones which are being enforced just the same, so it would seem that only three proposals to amend the constitution have completely failed of enactment by the people sooner or later, in some form, after fifty-four years of the 1874 Constitution.

A great many of the proposals, grouped under twelve heads and including the seventeen existing amendments and the related proposals, may be listed under the title of Finance. As to Bonds, the first group comprises the two proposals which culminated in the repudiation of the Holford Bonds, successful on a second attempt. It took nine attempts, which resulted in the three existing amendments of the second group, to get around the prohibition of the 1874 Constitution against the issuing of bonds by local political subdivisions.[43]

The raising of taxes for certain purposes gives us the next two groups. The third, involving taxes for local improvements, includes a defeated proposal for county taxes for improvements, and a successful one, providing for the same sort of taxes for roads and bridges.[44] The fourth group includes the ones providing for financing education. The millage tax was successively raised to seven, twelve, and eighteen mills, in three successful amendments, while a fourth proposition was defeated.[45]

The fifth group, tax exemptions and attractions for industry, culminated in an exemption of cotton mills in 1926, on

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[43]The three existing ones are: 1924, Local bond issues; 1926, Municipal improvement bonds; 1928, Local vote on building courthouses and jails. The six rejected or repealed provisions are: 1904, Local bond issues; 1908, Local bond issues; 1912, Cities and towns to issue bonds; 1914, Cities and towns to issue bonds for improvements; 1916, Three mill county road tax; 1918, Municipal improvement bonds.

[44]Defeated: 1894, Quorum courts to levy for local improvements. Passed: 1898, Three mill county road tax.

[45]1906, Seven mill school tax; 1916, Twelve mill; 1926, Eighteen mill. The defeated one of 1922, To increase school revenues.

the third attempt. In 1928 the city of Little Rock was authorized to levy a tax to attract industry.[46]

The legislative power of the State government has been the subject of treatment by the amendments. The sixth group includes four proposals regulating the sessions and salaries of the members of the General Assembly, two of which were successful and still in effect.[47] The seventh group includes four proposals, two successful, and two not, to carry the legislative power to the people in the form of the Initiative and Referendum.[48] The eighth group covers the two attempts in 1924 and 1926, the second one successful, to forbid special and local legislation by the legislature.

The ninth group has a single amendment, creating the office of Lieutenant-Governor, passed in 1914 and in abeyance for twelve years. In the tenth group will be found the increase in membership and salaries of the Supreme Court, successful on the fourth attempt.[49]

The eleventh and twelfth groups have one amendment each. The former permits nine jurors to render a verdict in civil cases and permits a waiver of juries in all cases,[50] and the latter provides for the regulation of carriers.[51]

In regulating the qualifications for voting two proposals, the first poll tax provision and a grandfather clause were defeated, while the second poll tax clause and an equal suffrage plan were adopted.[52]

The action of the Arkansas Supreme Court throughout its history on the question of altering the content of the constitution has been a wavering one. First, reversing itself on the

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[46]1910, Cotton mills tax exempt; 1912, Cotton mills tax exempt (actually passed but held in abeyance till case of Combs vs. Gray, and replaced by 1926 plan); 1926, Cotton mills tax exempt; 1928, Industrial amendment.

[47]Successful: 1912, Mileage, per diem, and sixty day session of legislature; 1928, To increase salaries of constitutional officers. Unsuccessful: 1902, Mileage and per diem of legislators; 1914, To fix salaries of legislators.

[48]Successful: 1910 and 1920. Unsuccessful: 1916 and 1922.

[49]1904, 1918, 1920, 1924.

[50]1928, Nine-man verdict in civil cases.

[51]1898, Regulation of transportation rates.

[52]Defeated: 1892, First poll tax; 1912, Educational qualification for voters. Adopted: 1908, Second poll tax; 1920, Equal suffrage.

question of the amendability of the bill of rights, and then, during reconstruction, reversing itself twice on the problem of the validity of the 1861 Constitution, it laid the ground for its subsequent action on the amending clause of the 1874 Constitution.

Five cases stand out under that document. The final situation settled by the latter of them is highly satisfactory, but it is the sequence found in them that is to be deplored. *Rice vs. Palmer* was sound enough, since it was no more than a required interpretation of the original amending clause. The Kavanagh case, in upholding the 1883 statute, furnished a result that seemed a compromise. *Hildreth vs. Taylor* could as well have gone the other way and made the Brickhouse and Combs cases unnecessary. This would have saved the State money in making it unnecessary to repeat on the ballot *five* proposals that were actually passed on the first attempt but held in abeyance. That case gives the impression of a too conservative use of the doctrine of strict construction.

The result of the Brickhouse and Combs cases is satisfactory enough but they are open to the attack which any reversal on an important question offers. The circumstances giving rise to this reversal are peculiar but the result is acceptable.

There seems to be but little room for subsequent reversals in order to validate more amendments. The court could, of course, reverse *Rice vs. Palmer* and carry the rule of the majority on the measure back from 1910 to 1874. This would have only the effect of validating the two amendments which are actually being enforced despite the fact that they were not adopted. All other of the amendments killed by indifference before 1910 have been adopted since then by other propositions in somewhat similar form. A reversal of *Rice vs. Palmer* also would give theoretical validity to that which seems to have practical existence, and would do no more harm.

It is fortunate that, at the present time, the constitution is easily amendable. The practice of rewriting whole constitutions frequently seems to have gone out throughout the nation, and an attempt to provide a new one for Arkansas in 1918 failed. So progress demands that constitutional changes

be made by individual amendments and this seems to be simple enough now in Arkansas. That all eleven submitted at the last three elections were approved by the voters seems to indicate that the people, blindly or not, vote for progress.

ANNUAL MEETING OF THE SOUTHWESTERN POLITICAL AND SOCIAL SCIENCE ASSOCIATION

The tenth annual meeting of the Southwestern Political and Social Science Association was held in Garrison Hall, University of Texas, March 29–30, 1929. In connection therewith was held the third annual conference of the Southwestern International Relations Clubs. The program was as follows:

FRIDAY, MARCH 29, 9:30 A.M.

Government Session

Chairman: Professor H. H. Guice, Southern Methodist University.

Secretary: E. S. Redford, University of Texas.

Organization: Registration; election of program chairman for 1929–1930.

Topic: *Problems in Citizenship.*

The Immigrant in American Politics, Professor Roy L. Garis, Vanderbilt University.

Allegiance in the Background of the American Concept of Citizenship, Professor R. M. Duncan, Texas Christian University.

Business Administration, Economics, and Agricultural Economics

(Joint Session)

Chairman: Director William F. Hauhart, Southern Methodist University.

Secretaries:

C. A. Rehm, University of Texas, Business Administration.

T. J. Cauley, University of Texas, Agricultural Economics.

E. G. Lewis, University of Texas, Economics.

Organization: Registration; election of program chairmen for 1929–1930.

The Accomplishment of the Federal Intermediate Credit Banks, Mr. H. H. Gossett, President of the Federal Land Bank of Houston and the Federal Intermediate Credit Bank of Houston.

Market News Censorship, Professor A. J. Weaver, Centre College.

General Discusison.

History Session

Chairman: Mr. Carlos Castañeda, Librarian, Latin American Collection, University of Texas.

Secretary: Miss Charmion Shelby, University of Texas.

Organization: Registration; election of program chairman for 1929–1930.

New Orleans as a Center for Texas Activities during the Texas Revolution, Professor James E. Winston, Sophie Newcomb College.

The Psychological Factor in United States-Latin American Relations, Professor John C. Granberry, Texas Technological College.

General Discussion.

Sociology Session

Chairman: Professor W. E. Gettys, University of Texas.

Secretary: Carl Rosenquist, University of Texas.

Organization: Registration; election of program chairman for 1929–1930.

A Method for the Study of Assimilation, Professor Carl M. Rosenquist, University of Texas.

Discussion.

Round Table Discussion on *The Teaching of Sociology in the Southwest.* The introductory course, textbooks, etc., will receive special attention in this discussion. Professor W. E. Gettys, University of Texas, leader of the discussion.

FRIDAY, MARCH 29, 12:30 P.M.

Agricultural Economics Luncheon

Chairman: Mr. L. P. Gabbard, Chief of the Division of Farm and Ranch Economics, Texas Agricultural Experiment Station.

Topic: *The Present and Future Program of Agricultural Economics.*

General Discussion.

FRIDAY, MARCH 29, 2 P.M.

Texas Relays. No session scheduled

FRIDAY, MARCH 29, 6:30 P.M.

General Conference Dinner

Chairman: The Honorable Claude Pollard, Attorney General of Texas.

Presidential Address: *Arithmetic in Social Science,* President Harry Yandell Benedict, University of Texas.

International Regulation of National Action for Self-Defense, Professor Pitman B. Potter, University of Wisconsin.

Foreign Policy of the United States in the Pacific, Dr. J. Q. Dealey, Dallas, Texas, formerly Professor of Political Science, Brown University.

SATURDAY, MARCH 30, 9:30 A.M.

Government Session

Chairman: Professor Frank M. Stewart, University of Texas.

Secretary: E. S. Redford, University of Texas.

Highway Administration in Texas, with Special Reference to the Problem of Financing a Highway Program, Round Table led by Professor Frank M. Stewart, University of Texas.

Discussion by Professor Taylor Cole, Louisiana State University, and Messrs. Leon G. Halden and V. O. Key, Jr., University of Texas.

The Louisiana Police Jury, Professor Taylor Cole, Louisiana State University.

Discussion by Professor W. A. Stephenson, Simmons University.

Agricultural Economics Session

Chairman: Professor C. O. Brannen, University of Arkansas.
Secretary: T. J. Cauley, University of Texas.
Land Utilization in the Southwest
Professor C.A. Wiley, University of Texas.
Professor J. A. Watson, Texas Agricultural and Mechanical College.
Operations of the Texas Cotton Growers Finance Corporation
Professor V. P. Lee, Texas Agricultural and Mechanical College.
Mr. Harry Williams, Dallas.
The Problem of Short-Term and Intermediate Credit in the Southwest
Professor B. M. Gile, University of Arkansas.
Professor R. L. Hunt, Texas Agricultural and Mechanical College.

Business Administration Session

Chairman: Professor Kenneth Dameron, Rice Institute.
Secretary: C. A. Rehm, University of Texas.
Topic: *Industrialization of the Southwest.*
Arkansas, Professor Truman C. Bigham, University of Arkansas.
Louisiana, Dean James B. Trant, Louisiana State University.
Oklahoma, Director Charles N. Gould, Oklahoma Geological Survey.
Texas, Professor Frank K. Rader, Southern Methodist University.
General Discussion.

History Session

Chairman: Professor C. W. Hackett, University of Texas.
Secretary: Miss Charmion Shelby, University of Texas.

Church and State in Seventeenth Century New Mexico as Illustrated by the Rosas Episode, Professor F. V. Scholes, University of New Mexico.

An Anonymous Description of New Mexico, 1818, Edited with Introduction and Notes, Professor Alfred B. Thomas, University of Oklahoma.

General Discussion.

Sociology Session

Chairman: Professor W. E. Gettys, University of Texas.

A Proposed Classification of Family Tensions, Professor W. P. Meroney, Baylor University.

Discussion.

The Shawnee Indians: A Study of the Conflict of Cultures, Professor J. J. Rhyne, University of Oklahoma.

SATURDAY, MARCH 30, 12:15 P.M.

Conference Business Luncheon

Chairman: H. Y. Benedict, University of Texas.

At the conclusion of this session the Executive Council of the Association met. The program chairmen for 1929–1930 met at the same time to elect a general chairman.

SATURDAY, MARCH 30, 2 P.M.

Agricultural Economics Session

Chairman: Professor V. P. Lee, Texas Agricultural and Mechanical College.

Secretary: T. J. Cauley, University of Texas.

Type of Farming Analysis

Professor C. A. Bonnen, Texas Agricultural and Mechanical College.
Professor S. A. McMillan, Texas Agricultural and Mechanical College.
Professor Roy L. Thompson, University of Louisiana.
Professor C.O. Brannen, University of Arkansas.

Economics Session

Chairman: Professor Max S. Handman, University of Texas.

Secretary: E. G. Lewis, University of Texas.

Mexican Labor in the Southwest, Professor John Mez, University of Arizona.

Discussion by Professors C. A. Wiley and R. H. Montgomery, University of Texas.

Government Session

Chairman: Professor A. T. Prescott, Louisiana State University.

Secretary: E. S. Redford, University of Texas.

Topic: *The State Legislature.*

The Louisiana Legislative Assembly from 1896 to 1932, Professor O. D. Duncan, Louisiana State University.

Whither to in State Legislation, Professor G. C. Hester, Southwestern University.

Discussion by Professor J. E. Conner, South Texas State Teachers College.

General Discussion on *The State Legislature.*

THE SOUTHWESTERN INTERNATIONAL RELATIONS CLUBS CONFERENCE

FRIDAY, MARCH 29, 10 A.M.

Chairman: Dr. A. M. Murphy, Our Lady of the Lake College.

Secretary: V. O. Key, Jr., University of Texas International Relations Club.

Some Factors Involved in the Present Mexican Revolution, Miss Anne Davis, Our Lady of the Lake College International Relations Club.

Present Status of the World Court Question in the United States, Frank Stubbeman, University of Texas.

Discussion led by Professor J. L. Granville, Southern Methodist University.

FRIDAY, MARCH 29, 2 P.M.

Texas Relays. No session scheduled

FRIDAY, MARCH 29, 6:30 P. M.

General Conference Dinner. (See Program of the Southwestern Political and Social Science Association.)

SATURDAY, MARCH 30, 10 A.M.

Chairman: Mr. W. A. Oliver, University of Texas.

Some Recent Anti-War Treaties of the United States, J. A. Apple, Oklahoma State University International Relations Club.

The United States and Soviet Russia, Professor P. B. Potter, University of Wisconsin.

Recent Commercial Treaty Policies of the United States, Gordon Bryan, University of Texas International Relations Club.

General Discussion led by Professor P. B. Potter, University of Wisconsin.

The registers of the several sections showed a total of 244 names. The net total was 226, marking a new record in the history of the Association. Registration by sections was as follows, both visitors and members being included: agricultural economics, 33; business administration, 47; economics, 31; government, 61; history, 54; sociology, 18. Registration in the Conference of International Relations Clubs totaled 40.

The annual business luncheon and meeting set a new high mark in point both of attendance and of interest and enthusiasm. Dr. H. Y. Benedict, president of the Association, presided at the meeting. The order of business at this meeting was that usually followed, to-wit: Reports by the secretary-treasurer upon the membership and finances of the Association, by the Board of Editors upon the *Quarterly*, and by the committees on nominations and resolutions, and finally, election of officers for the ensuing year.

The report on membership revealed the net total to be 280 as against 285 for the previous year, the decrease being due in large part to a more rigorous policy in regard to dropping members in arrears. The financial statement was as follows:

FINANCIAL STATEMENT FOR NINTH FISCAL YEAR, ENDING MARCH 31, 1929

Receipts:			
Membership:			
Contributing	$ 60.00		
Sustaining	10.00		
Active	661.75		
Total		$ 731.75	
Sale of Publications		57.50	
Refund on Reprints		75.95	
U. of T. Appropriation		1,500.00	
Total Receipts			$2,365.20
Expenses:			
Traveling		$ 167.17	

Printing *Quarterly:*			
March, 1928	$ 296.10		
June, 1928	274.30		
September, 1928	308.32		
December, 1928	355.50		
Total		1,234.22	
Printing Reprints		154.20	
Printing Programs, Ninth Conference		35.00	
Printing bill forms		3.70	
Clerical Help		68.85	
Stenographic Supplies and Stamps		79.39	
Incidentals for Ninth Conference		11.13	
Refund to Faxon Company		3.00	
Articles in *Quarterly*		700.00	
Salary of Secretary-Treasurer (13 mo.)		325.00	
Post Office Deposit		10.00	
Total Expenses			$2,791.66
Net loss for Current Year			426.46
Balance from 1927-1928			1,474.50
Balance, March 30, 1929			$1,048.04

The statement reveals a decrease in the balance as compared with the previous year. This is accounted for very largely by an increased expenditure upon the *Quarterly* and by the new policy of allowing a nominal salary to the secretary-treasurer.

The report of the Board of Editors was made by Dr. C. P. Patterson. In it he revealed the steady improvement in the *Quarterly* both as to format and as to quality of articles. The March, 1929, *Quarterly* was pointed to as the largest, the most expensive, and, on the whole, the best issue published thus far by the Association. Various data on manuscripts submitted and published were given. Dr. E. T. Miller urged the advisability of publishing the proceedings of the annual meetings.

The report of the committee on nominations was made by Professor J. Anderson Fitzgerald. Nominations for the several elective officers were as follows: President, M. K. Graham, Graham, Texas; fiirst vice-president, J. Q. Dealey, Dallas; second vice-president, D. Y. Thomas, University of Arkansas; third vice-president, C. W. Pipkin, Louisiana State University; elected members of the Executive Council, Floyd L. Vaughan, University of Oklahoma, and V. P. Lee, Texas Agricultural and Mechanical College. These nominations were approved without dissent and election was made by acclamation.

It is no doubt permissible to state that the members of the Association were particularly pleased both that some of the older officials continued in their positions and that Mr. Graham, a prominent business man and student of economics of Graham, Texas, and Dr. J. Q. Dealey, recently retired from Brown University and now on the staff of the

Dallas News, were induced to join the official family. It was a matter of regret however, that Mr. G. B. Dealey, long a vice-president of the Association, felt compelled to retire from that position.

The report of the committee on resolutions, made by Professor F. V. Scholes, extended the thanks of the Association to the officials of the University and of the Association, and to the local and state press for contributing to the success of the meeting. Appreciation was expressed also for the generous financial aid extended by the Regents of the University to the support of the *Quarterly*.

Professor E. T. Miller having suggested that the Executive Council could better decide the matter after the receipt of invitations, no vote was taken upon the question of time and place of the next annual meeting. Appreciation was expressed, however, for the invitation already extended by Texas Technological College.

At the meeting of the Executive Council, which followed immediately upon the adjournment of the business meeting, the members of the Board of Editors and the Secretary-Treasurer were reëlected to their positions and a decision was reached to publish the proceedings of future meetings if finances permitted.

The program chairmen of the several sections met at the same time as did the Executive Council and elected Professor C. A. Wiley, University of Texas, as general chairman for 1929–1930. The chairmen of sections are as follows: Agricultural economics, C. A. Wiley, University of Texas; business administration, Donald Scott, Southern Methodist University; economics, C. A. Wiley, University of Texas; government, G. C. Hester, Southwestern University; history, J. C. Granbery, Texas Technological College; sociology, W. P. Meroney, Baylor University.

CHARLES A. TIMM, *Secretary-Treasurer.*

BOOK REVIEWS

EDITED BY O. DOUGLAS WEEKS

University of Texas

Lynd, Robert S. and Helen Merrell, *Middletown: A Study in Contemporary American Culture.* (New York: Harcourt, Brace and Company, 1929, pp. xi, 550.)

For many years sociologists and anthropologists have been deploring the lack of objectivity in their fields and giving wordy advice as to how this deficiency should be overcome. Very few of them, however, have had the inclination or ability to put their preachments to the test of practice. Perhaps it is impossible for a man who knows only his own time and place to view them with the impartiality of an outsider. At any rate the first satisfactory objective studies of society were made, not of our own, but of distant, primitive societies whose cultures strongly contrasted with those of the investigators. Even these studies were in the beginning little more than evaluations and interpretations of savage customs in terms of civilized morality. However, the technique of observation has been developing, little by little, so that now anthropology can show numerous examples of accurate, unbiased investigation. Upon the broad base of a general understanding resulting from such considerations of many different societies, we can at last find a viewpoint from which to examine ourselves. A most noteworthy attempt so to do is made by Robert S. and Helen Merrell Lynd in their recent book, *Middletown.*

The authors selected as the object of their study a mid-Western, typical, common place, small city. They wanted, so far as possible, to deal with the average and the ordinary rather than with the unique and the bizarre. That they made a wise choice can scarcely be questioned, for certainly there is nothing in life more nearly approaching the average and ordinary than the Middletowns of the American Corn Belt.

The authors thereupon made themselves unobtrusively at home in the city, took part in the comings and goings of the people, asked questions, gained confidences, consulted newspapers and records, kept their eyes open to everything, and wrote down what they learned. They found that Middletown folks live a highly complex existence and engage in a great variety of activities, activities which, in general, can be grouped into six distinct categories. These are given to us in the form of verbs, as they should be: getting a living, making a home, training the young, using leisure, engaging in religious practices and engaging in community activities. The relative importance of these functions is indicated by the order in which they are arranged. "Fascinating" is the only word adequate to describe the account, thus presented, of life in Middletown. The reader sees, almost as clearly as at first hand,

the small, uncomfortable business class struggling to keep up with itself and, at the other end of the scale, the mass of common working men hopelessly staring into the bleak future of old age and unemployment. He sees the homes they live in, the kind of families they have, what they eat and what they wear. He sees the effect of recent social change in the newer forms of amusement and in the disapproving shakes of the head which invariably follow the introduction of the subject of innovation into the conversation. He goes with the citizens of Middletown to their churches, their luncheon clubs, their celebrations. He is shown the chicanery of the creaking political machine; the pathetic attempts of the community to generate local pride; the half-hearted measures for the care of the poor and helpless. The picture is as complete as could be desired, and so interesting that it is almost impossible to lay down the book without finishing it.

The business of living in Middletown, we see, is so drab as to be positively impressive, a veritable symphony in drabs. The lightest nuances stand out in startling and refreshing relief against the wearying progression of the daily round. We are at once convinced, if we ever dared entertain a doubt, of the reality of Gopher Prairie, Zenith and Nautilus. And we can not help chuckling at the little touches by which the authors, tongue in cheek, have placed the mark of their personalities upon a very excellent work.

CARL M. ROSENQUIST.

University of Texas.

Hughes, Charles Evans, *Our Relations to the Nations of the Western Hemisphere.* (Princeton: Princeton University Press, 1928, pp. 124.)

This little volume contains the addresses that the author delivered at Princeton University in 1928 under the Stafford Little Lectureship. The first is concerned with the Monroe Doctrine and with Canada; and the second and third, with the more important present-day aspects of United States-Latin American relations, such as recognition, investments, intervention, and arbitration.

In his discussion of the problems forming the subjects of his lectures, the author followed, quite naturally, the opinions, attitudes, and policies that actuated him while he was secretary of state. Thus we find a repetition of his insistence that progress would be made if we consider that there is a series of distinct problems and not merely a Latin-American problem. This is shown in his treatment of the Monroe Doctrine as essentially defensive, and, in consequence, subject to definition only by the United States. As a policy of defense it is to be distinguished from other policies that we have in regard to Latin America. Unfortunately the Doctrine has suffered because its friends and foes alike have too often connected it with every action that we may take in relation to the states of Latin America. For example, we have, quite apart from the Doctrine, the right to protect our nationals abroad.

In his discussion of our relations with Canada Mr. Hughes contents himself in the main with tracing the development of Canada as a self-governing dominion, and with the means employed by that dominion and the United States for the peaceful adjustment of difficulties.

Our relations with Latin America occupy, as is quite natural, the major part of the author's attention. They are treated under different topics, namely, recognition of governments; furnishing arms; loans and investments; intervention, and protection of nationals and their property; pacific settlement of disputes; and international organization. Each of these problems Mr. Hughes treats in the light of State Department policies since 1921. Thus, in a way, the lectures serve as a defense of the foreign policies of the last two administrations. Nevertheless, they give the reader a clear understanding of the problems in question. They serve to reveal the strong as well as the weak points of our policies. They reveal the common weakness of our attitude toward Latin American: that we can not understand why policies and actions adopted and taken clearly in the interest of Haiti, Cuba, etc., etc., should nevertheless be the cause of disquiet and even fear in the states to the south of us. The critic may readily question whether good intentions, or even clearly established benefits, are enough.

As an illustration of the point just stated, attention might be drawn to the assertion that "on the whole the Western Hemisphere is entitled to the designation of the hemisphere of peace." Mr. Hughes was speaking of the frequent use of arbitral and conciliation machinery. Yet many might think with a recent writer (Wicker, in *Century*, Feb., 1929) that, particularly in the Caribbean, it is a peace "not of disarmament but of a strong man armed." For the better consolidation of peace in this hemisphere the author suggests, first, conciliation along the lines of the Gondra Convention, second, a general agreement for obligatory arbitration to the utmost extent possible (he probably had the Senate of the United States in mind); and third, greater use of permanent joint commissions. As is natural he fights shy of anything like an American League of Nations or an American court of international justice. The Conference of American States serves well, in his opinion, as a forum for the discussion of common problems, political and otherwise; the Pan-American Union is an efficient administrative body, and should not be made political in character; and finally, there is neither any satisfactory machinery in this hemisphere for setting up a Pan-American Court, nor is there, considering the ease with which courts already constituted may be employed, any real need for such a tribunal.

These lectures are readable and worth reading, what with the clear, vigorous style of their author and the spirit of sincerity and conviction that permeates them. They reveal recent American policies in a favorable light, though they are frank in revealing failures. They emphasize once more the purpose of our government to help build a Pan-Americanism upon the firm, non-spectacular basis of slowly developing common interests of social, cultural, and economic character rather

than upon the spectacular but wholly insecure foundation of formal political organizations.

CHARLES A. TIMM.

University of Texas.

Gettell, Raymond G., *History of American Political Thought.* (New York: The Century Company, 1928, pp. 633.)

This is a textbook. That fact makes it rather difficult to evaluate it properly. Owing to the number of courses offered in the field of American political theory, there seems to be a real need for a text in this subject. However, after perusing this volume of some 600 pages, one is led to wonder if Professor Gettell has really filled this need. Perhaps it is a task which cannot be accomplished by one man in a reasonable length of time. Professor Gettell should be given credit for heroically attempting to accomplish it. The work is voluminous, accurate, and the numerous references are silent reminders of painstaking and conscientious scholarship. Throughout the book one feels that the author mapped out a prosaic and laborious task and had the grim determination to go through with it.

The history of political thought is a difficult and elusive subject to handle. It does not lend itself readily to organization and presentation. Professor Gettell has chosen the orthodox historical method. The presentation is chronological. It is descriptive and historical rather than analytical or critical. In such a treatment one would of course expect the "Introduction" with its "Nature of American Political Thought." This is material for a fruitful volume, but unfortunately the author is impelled to go on to the "European Background," "Colonial Political Thought," the Revolution, the framing of the Constitution, Federalist supremacy, Republican supremacy, etc., etc., until he finally has made a survey of our whole political history down to the present time. It is a long and weary road fraught with pedagogical difficulties. Some students will follow it as a matter of academic routine; others will accept it as a disagreeable chore to be performed; the more thoughtful and imaginative will wish to leave it for the more pleasant and inspiring paths of political philosophy.

This is not a criticism of Professor Gettell. It is rather a criticism of the historical and encyclopedic method. This method is apt to encounter a number of difficulties. In the first place, it is difficult to place proper emphasis on the main currents of our political thought if one attempts to give a complete resume of past political issues. Secondly, if one attempts to allocate political theories in certain periods he is very apt to paint a somewhat distorted picture. Certainly whiggery, democracy, federalism, agrarianism, etc., do not belong to any particular period of American history. They are our stock in trade and it would seem that an attempt to discuss them in their social, economic and psychological background would be more profitable than to give them that panoramic treatment which the orthodox historical method demands. Finally, the historical and descriptive method is very apt to

be lacking in that delightful creative imagination out of which political theory may be reconstructed. The work under discussion is no exception. It is remarkably prosaic and tedious. It has the advantage, of course, of being accurate while a critical analysis of the main phases of our political thought takes a big chance on accuracy. But is accuracy the only test or even the most important criterion? In the field of political thought is it not just as well to follow the admonition of Professor Beard that it is better to be wrong in a few big things than right in so many little ones?

I realize of course that this is not fair estimate of Professor Gettell's work. A criticism such as this is rather stating a personal preference for a method of approach different from that taken by the author of the book under discussion. Let us be fair. Professor Gettell has chosen to treat American political thought and political issues from a historical point of view. He has covered a period from colonial times to our own day. He has assembled a tremendous amount of material, arranged and classified it, and organized it into a presentable form. Let us hope that other scholars will be inspired to take up portions of this big field for philosophical interpretation and reconstruction.

WALTER THOMPSON.

Stanford University.

Trotsky, Leon, *The Real Situation in Russia.* Translated by Max Eastman. (New York: Harcourt, Brace & Co., 1928, pp. 364.)

Here is a statement of "the real situation in Russia" from the viewpoint of the left-wing Opposition in the Russian Communist party. Through the Opposition platform, introduced into the Central Committee of the All-Union Communist party by its thirteen opposition members in September, 1927, through Trotsky's speech of October 23, 1927, on the proposal to expel him from the Central Committee of the party, and through his letter to the Bureau of Party History on Stalin's alleged falsification of history, there is presented both a spirited defence of the philosophy, program, policies and tactic of the Opposition and a crushing indictment of the program and policies of Stalin and his Committee majority. These latter are accused of almost every conceivable crime in the Communist category. It is claimed that their program has "lowered the international position of the Soviet Union," that they are surrendering the workers' state to capitalism by the pursuit of policies that strengthen the position of bourgeois elements in Russia and "weaken the general position of the workers' state in the struggle with world capitalism." Stalin, so the indictment runs, has distorted Lenin's philosophy and abandoned the fundamental principles of Marxism. The Soviet governing and administrative organs, controlled, of course, by Stalin and his supporters, are accused of bureaucratism, inefficiency, tyranny, and opportunism. In a word, the dominant group is pictured as destroying all the work of the Revolution, endangering the existence of the U.S.S.R., and betraying the international communist movement.

Trotsky and the Opposition propose, as their counter program, the reduction or abolition of taxes on the poorer peasants and the town proletariat and increased taxation of the Kulaks and the new bourgeoisie, the organization of agricultural laborers and poorer peasants against the Kulaks, nationalization of the land, the development of collective and coöperative agriculture to offset the individualist and bourgeois tendencies of small farming and virtual peasant proprietorship, the more rapid development of transport, increase in industrial efficiency and reduction of costs of production, reorganization of administrative machinery to counteract bureaucratic tendencies, and other equally pertinent and, one is tempted to remark, equally impossible measures.

One feels that the fears of the Opposition are well warranted, that there is a considerable measure of truth in their criticisms, and that their positive program and proposals are in the main and from the point of view of communist theory unquestionably sound. On the basis of Marxian theory Trotsky has by far the best of the argument. But, however unfortunately from the communist viewpoint, the economic situation in Russia was, and is, against him. Stalin gained the victory over the Opposition because he adapted his program to economic realities. The conflict between the two leaders was a conflict of basic principles. Trotsky, the international revolutionist, devoid of nationalist feeling and sentiment, supremely class conscious and devoted to the cause of proletarian emancipation, would use the communist dictatorship in Russia to exploit the peasants in order to finance propaganda and activity in behalf of world revolution, hoping that the revolution might materialize before the end of the rope was reached in Russia. He is thoroughly convinced, in the light of the materialist interpretation of history, that communism in peasant and economically backward Russia is impossible of realization unless supported by working class revolutions in the great industrial western countries. He is, therefore, intransigeant, bitterly opposed to opportunistic concessions to indivilualist peasants or Nepmen. He has always regretted the substitution by Lenin of the New Economic Policy for war communism. Stalin, a Georgian from the Caucasus, unfamiliar with western civilization, essentilly Asiatic in viewpoint and temperament, is more Russian and more nationalist. He is less and less interested in world revolution and more and more interested in the preservation of Soviet Russia as a workers' and peasants' state. He is a communist, he keeps the goal in view, but he would hasten towards it slowly. Above all, the Party dictatorship in Russia must be maintained, and Stalin realizes that it can not be maintained without at least the passive acquiescence of the peasants. Concession and opportunistic deviations from the communist path are therefore inevitable. Trotsky is the better Marxian but Stalin is the better politician and strategist.

Edward Everett Hale.

The University of Texas.

Herring, E. Pendleton, *Group Representation before Congress.* (Baltimore, The Johns Hopkins Press, 1929, pp. xvii, 309.)

In the brief period of the last fifteen years the spirit, if not the form, of representative government has undergone remarkable changes. "The idea of occupational, functional, professional, economic, or class representation has been incorporated in greater or less degrees into the constitutions of not a few of the states of Europe." In Russia and Italy the parliamentary bodies, such as they are, have been established frankly on a functional basis, and in Germany, France and some other countries of Europe advisory economic councils have been created. The pluralistic doctrines of the Webbs, the Guild Socialists and others have assumed to some degree a concrete form.

More interesting, perhaps, than any of these experiments has been the spontaneous metamorphosis of that ancient and much hated American institution—the Lobby—into a majestic and powerful affair known as the "Third House." In the place of those unprincipled, shamefaced, skulking, shyster lawyers and "lame duck" Congressmen of a generation ago, who darted out furtively from behind the pillars of our Congressional corridors to buttonhole, and perhaps to bribe, some weak or corrupt solon in the interest of the shady business which employed them, there is now a horde of brazen and shameless "legislative agents," who emerge from palatial headquarters to descend fearlessly upon Congressional committees and party leaders to demand what is their "right" and the right of the powerful nation-wide organizations which they represent. "Man for man," we are told, "they measure higher in ability than Congressmen." "A Congress composed of lobbyists, we would easily wager, would walk away with that now sitting at the Capitol; it would out-argue it, out-maneuver it, and in general up-to-dateness of business methods out-play it." Such are the boasts of this new breed, and, in part at least, they are made good. In fact, there is much truth in the statement of Senator Shipstead that "If the (capitol) dome does not look like the top of an old-fashioned nursing bottle, I do not know what it looks like."

Thus does Mr. Herring in his recently published book, *Group Representation before Congress,* describe the new phenomenon. The causes for it, which he suggests, may be summarized as follows: (1) "A new spirit of socialization among men and a tendency to combine in groups for their common interest"; (2) "the decline of the political party as a leader of opinion"—it has become "the mere broker that accepts the planks of organized interests that promise to insure the most votes"; (3) the many new contacts established between government and economic life in war-time and which have survived the war; and (4) the improved means of communication, which make organization possible on a large scale, together with the development of the art of propaganda. Economic, political, and psychological developments, then, stand in the background. "Many of the national associations of the present day, however," the author reminds us, "are not primarily concerned with legislation nor with politics. Their basis is economic rather than

political," but their "Washington offices function as the embassies of their membership before the national government" when legislative favors are sought.

The number of these Washington "embassies" is close to five-hundred, but this does not take into account the "volunteer spokesmen" who descend upon the capitol spasmodically and the representatives of the trade associations. Many of the organizations however, are ineffective or mere "bluffs." Nevertheless the powerful ones are numerous and efficient enough. A description of their organization and methods occupies nine of the fourteen chapters into which the work under consideration is divided. These chapters concern themselves with the United States Chamber of Commerce, the trade associations, the farmers' organizations, labor, the federal employers' unions, the professional societies, organized women, organized reform and nationalists and internationalists. The treatment of these subjects is comprehensive and illuminating.

As may be supposed, the work is largely descriptive. Therein, no doubt, lies its chief merit. That it represents careful study can not be doubted. The style is easy and attractive, although perhaps loose at times. The analysis of the transition from the old to the new lobby is valuable. If any bias is evident, it probably consists of a too ready acceptance of the new order of things. That functional representation is highly desirable and inevitable, and that it has already arrived to the extent of having largely submerged the accustomed forms of representative government may be considered debatable questions.

O. DOUGLAS WEEKS.

University of Texas.

Taylor, Albion G., "Labor Policies of the National Association of Manufacturers," *University of Illinois Studies in the Social Sciences*, Vol. XV, No. 1. (Urbana: University of Illinois, 1928, pp. 184.)

Trade unions are, as Professor Hoxie observed years ago, but one factor in a great struggle involving fundamental questions of social rights and social welfare. Yet the other factor has received much less attention in the literature of industrial relations. Structurally and functionally, employers' associations present a striking parallelism to trade unions; and it is fortunate that of late more careful study has been given their assumptions, theories, attitudes, policies, and methods.

The case of the National Association of Manufacturers is one that has long "wanted doing," and Dr. Taylor has utilized the opportunity skillfully. This militant, class-conscious organization, which "believes in organized labor" but opposes practically every method by which unions seek to make themselves economically effective, is the outstanding example in the United States of the aggressive non-trade type of employers' association. Unhampered by traditions of collective bargaining which sometimes color the policies of trade associations, the N.A.M., together with its sister organizations, the League for Industrial Rights and the National Industrial Council, has been able to promulgate its policies and

propagandize its viewpoint with a freedom not possessed by the narrower organizations, which must deal with the practical, day-to-day problems of employer-worker relationships as they arise.

The philosophy of which its policies and methods are manifestations is Doric in its simplicity. The interests of the employing class are (presumably according to the laws of God or the laws of nature) the interests of society as a whole, including the wage-earning class. Therefore in the exercise of their individually profitable—and *ipso facto* socially beneficial—functions, manufacturers have the "right" to demand freedom from outside interference. The doctrine of natural liberty is the guiding principle; the objective is the maintenance of the *status quo* and the protection as sacred of the individualistic aspects of capitalism.

From his study of the organization's turbulent history and ringing pronunciamentos, Dr. Taylor concludes that at least eight fundamental policies have been followed consistently: (1) the abstract right of labor to organize without resorting to either militant action or collective bargaining (one thinks of Mr. Dooley's description of unions "properly conducted"); (2) the maintenance of the open shop; (3) the protection of property rights and the interpretation of the right of contract—including the "yellow dog" contract—as a property right; (4) opposition to restriction of output; (5) liberality in admitting immigrants, with due attention to selection; (6) opposition to boycotts, unfair lists, blacklists, picketing, strikes, or lockouts; (7) condemnation of class legislation; and (8) the demand that organized labor be held legally responsible for its acts. In view of this program, the plea of one of the Association officers to "let the thought perish in the willing minds which harbor it that this Association has as its dominating purpose to crush or oppose organized labor" is indeed touching.

In the propaganda methods by which the Association has attempted to influence that phantom thing, public opinion, and in the political and lobbying methods, one finds much regarding the ways of political democracy which, if not exactly new, is worthy of detailed description. The Publicity Committee of the N.A.M. may never have studied the writings of Mr. Walter Lippman, but it has somehow stumbled upon the lessons which his essays teach. Recognizing that men often respond as powerfully to fictions as they do to realities, it has developed a highly-perfected technique for altering the mental pictures to which individuals react. Almost every conceivable channel of propaganda has been resorted to—the school, the church, the press, and the agencies of the state and of industry. Dr. Taylor believes that the church and the various governmental agencies have perhaps afforded the best channels for approach to the masses; "the clergy and statesmen are dogmaticians to a far greater degree than their more academic brothers, the schoolmen," and it is a distinct advantage to win these positive speakers to a cause. In politics, the Association has followed the American Federation of Labor method of "rewarding our friends and punishing our enemies," and it has always maintained an active lobby. As early as 1900 it worked for the election of McKinley, and it has consistently

given its endorsement to wise and right-thinking statesmen such as Warren G. Harding, Joseph G. Cannon, Smoot of Utah, and Nicholas Prince-of-Good-Fellows Longworth. All congressional measures which might affect the interests of its members have been subjected to a rigid scrutiny, and on the whole there seems to have been a remarkable degree of success in causing the abortive death in committee of unfavorable legislation. Among the major legislative targets have been the federal eight-hour laws, the two child labor bills, the 1914 amendments to the anti-trust laws, and the sixteenth, seventeenth, nineteenth and proposed twentieth amendments to the constitution. The "noble experiment," on the other hand, met with no opposition from the Association.

A statement of the Association's philosophy and of its policies and methods may imply, however, that it is governed by an undeviating, uncompromising adherence to its abstract principles. Justice demands that the exceptions be recorded. When higher considerations so dictate, the N.A.M. can depart gracefully from the principles it has so often reiterated. As a proponent of the natural rights philosophy, clinging tenaciously to the principles of inalienable property rights which characterizes human labor as a commodity, the organization has stood unflinchingly for the sanctity of the courts—the bulwark of protection of property and the concept of property as including contracts and the right to carry on business. But when a court has happened to render a decision in favor of a "union conspiracy," then the Association has not hesitated to condemn it. In principle and almost always in practice, also, the N.A.M. has been opposed to the boycott—primary, secondary, or compound. Nevertheless an executive officer wrote to President Coolidge in 1925 that the Association had urged that independent coal fields be not overlooked in placing orders for bituminous coal. There are other examples of departure from abstract principles in the interest of higher considerations.

For the most part, Dr. Taylor confines his own comment to that of an explanatory character, letting this vocal and articulate organization speak for itself. The temptation to go beyond explanation and analysis must have been powerful, and such Spartan literary forbearance deserves commendatory mention. The immediate value of this study certainly is not lessened by the fact that the National Association of Manufacturers, in spite of some loss in membership since 1920, is probably in a stronger position today than ever before to go about furthering the cause of the open shop—the cause that is, in its opinion, "the *sine qua non* of our industrial safety, advancement, and supremacy."

ROYAL E. MONTGOMERY.

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Rippy, J. Fred; Vasconcelos, José; and Stevens, Guy, *American Policies Abroad: Mexico.* (Chicago: The University of Chicago Press, 1928, pp. xii, 254.)

This volume is the first of a series that the Chicago Council on Foreign Relations intends to publish on American foreign policies.

The purpose is to present first, the fundamentals of each general problem, and second, discussions from different points of view of the elements of the problem.

The general plan of the series is carried out in excellent fashion in this initial volume. Professor J. Fred Rippy leads off with a chapter entitled "The United States and Mexico, 1910–1927." In it he presents rather effectively the historical development of Mexican-American relations from the beginning of the revolution against Diaz to the present day. In his discussion of the Mexican policy of the Taft administration he endeavors to fasten a considerable degree of responsibility for Madero's downfall upon Taft's evident lack of confidence in Madero and upon Ambassador Wilson's menacing hostility to him. The author is more loath to pass judgment upon President Wilson's Mexican policy. At least he credits Wilson with a genuine interest in, and desire to foster, the welfare of Mexico's submerged ninety per cent. Wilson stood against interventionists at home, and his attitude towards Huerta and Carranza as well as the taking of Vera Cruz and the pursuit of Villa prove his sincerity of purpose. Certainly it is not far wrong to attribute Carranza's downfall more to his own pig-headedness than to any influence exerted by Wilson. The survey of the period since March, 1921, is concerned primarily with the problems of recognition, and of the Mexican mineral and land laws. This period is less effectively treated than are the Taft and Wilson periods.

Mr. Vasconcelos' chapter, "A Mexican's Point of View," seeks to present the attitude of the Mexican liberal of the educated class. He, too, takes Ambassador Wilson and President Taft severely to task for being partly responsible for Madero's fall. But he readily credits the majority of Americans with being in sympathy with the revolution, and he admits President Wilson's genuine interest in Mexico's welfare though charging him with serious errors such as the Vera Cruz affair and the recognition of Carranza. In the Villa affair he frankly says of Wilson that "in the face of a most difficult situation he did the least possible harm," *i. e.*, he made it a "punitive expedition" and not, as certain interested Americans hoped for, an intervention. The recognition of Carranza, he claims, came after that leader had been repudiated by the best elements of the Revolution. Interestingly enough, Mr. Vasconcelos believes that Obregon would have done better not to have sought recognition, for recognition involved paying a price. The long controversy over oil and land laws since 1923 he characterizes as a part of the old struggle between American democracy allied with Mexican democracy and the "dark forces of privilege seeking illegitimate exploitation of Mexican resources." Perhaps, on the whole, Mr. Vasconcelos portrays the attitude of the dreamer, the idealist, rather than that of the practical statesman.

The third chapter, "An American's Point of View, was written by Mr. Guy Stevens, director of the Association of Producers of Petroleum in Mexico. In a clear, vigorous, almost trenchant style, he presents the position of the American investor. He believes that the real issues

in the problem have been deliberately obscured by the Mexican government and by a group of American apologists of Mexico. This obscuration is effected by a dense smoke-screen of historical, ethnological, and psychological facts and fancies. Every attempt, however courteous, of the American government to defend legitimate American interests has met an attempt on the part of the order of protestors, both Mexican and American, to howl it down with cries that our State Department or our ambassador does not understand "Mexican Psychology." The author takes up the land and mineral laws and shows concretely how important American properties and interests legitimately acquired have been injured or destroyed by policies, if not of outright confiscation, at least characterized by such haggling, nagging, harassing tactics as to lend color to the charge that the Mexican government has consistently indulged in "equivocation, evasion, and mental reservation." Not wishing to compensate for properties taken or injured, that government has sought by laws, decrees, and even extra-legal tactics, to force American owners to dispose of them legally at great sacrifices. An illustration is the "suicide" clause of the petroleum law of December, 1925, requiring the surrender of previous titles in exchange for concessions. Article 27 of the Constitution forbids the granting of such concessions to foreign corporations; yet this law of 1925 would declare forfeited the rights of companies who failed to do what the constitution forbade them to do! Any concession they would have secured would have been constitutionally invalid. In the process of the struggle it is apparent, according to the author, that the Mexican government has, by clever propaganda, succeeded in touching the vein of maudlin sentimentality that characterizes much of the American public. This propaganda has been carried to all of this hemisphere and has made Mexico the focal point of the alleged "Anti-Yankee" sentiment. Mr. Stevens presents no definite solution but offers instead the formula that all would be well if the Mexican government would "do that which is to the best interests of the Mexican people in the long run." It is clear that he means by this that the real interests of Mexico will be best served by giving full protection to legitimate foreign rights and interests in Mexico. However much one may differ with the rather legalistic, pragmatic point of view of the author, it is at least refreshing to read his plea that the problem be kept down on the earth. It is equally refreshing to find some one who does not take the position that merely because our State Department comes to the defense of American property rights in a Latin-American state, it is necessarily in the wrong.

CHARLES A. TIMM.

University of Texas.

Beard, Chas. A. (ed.), *Whither Mankind: A Panorama of Modern Civilization.* (New York: Longmans, Green and Company, 1928, pp. vii, 408.)

Page, Kirby (ed.), *Recent Gains in American Civilization.* (New York, Harcourt, Brace and Company, 1928, pp. 357.)

Fay, Bernard, *The American Experiment.* (New York: Harcourt, Brace and Company, 1929, pp. 264.)

Dr. Beard, the editor of *Whither Mankind,* has stated very clearly the purpose and method of the work in his introduction. He summarizes the efforts of those who "are attempting to assess the values of civilization and speculating about its destiny," then he comments (p. 9): "Given the liveliness of the present discussion about civilization and the confusion that reigns among those engaged in inquiries respecting the subject, it seems worth while and pertinent to the thinking of our age to take stock, to clarify our notions by definitions and specifications, to invite those who talk with facility about it to deliver a bill of particulars. Such is the purpose of this book." A paragraph of questions follows, questions which the editor and his colleagues propose to deal with, and then: "Conceivably a master mind, a modern Aristotle, equipped with all the sciences of the time, could attempt the solution of this riddle, but the intense specialization of our age, the enormous mass of accumulated knowledge precludes any such unitary treatment. Hence the concurrence of many minds is necessary if any progress is to be made" (pp. 9–10).

The list of contributors (eighteen in all) includes the names of men well and favorably known in their respective lines of endeavor. To enumerate, Hu Shih has written on the civilizations of the East and the West; Hendrik Willem Van Loon on ancient and modern civilizations; Bertrand Russell on science; Julius Klein on business; the Webbs on labor; Howard Lee McBain on law and government; Emil Ludwig on war and peace; C. E. A. Winslow on health; Havelock Ellis on the family; George A. Dorsey on race and civilization; James Harvey Robinson on religion; Lewis Mumford on the arts; John Dewey on philosophy; Stuart Chase on play; Everett Dean Martin on education; and Carl Van Doren on literature. The editor completes the list with an introduction and an epilogue. There doubtless are those who can suggest some substitutions which would improve the personnel of Dr. Beard's corps of collaborators; but for the reviewer his selections prove quite satisfactory, if the territory to which he has limited himself be taken into account. Nor is the range of titles included open to adverse criticism. Contributions on other subjects might have been solicited, but the articles printed certainly cover a sufficient variety of interests to refute all charges of partiality or incompleteness.

One well warranted criticism, however, is that the articles printed are not uniform in quality, and without expanding on this idea we may note that John Dewey, Everett Dean Martin, and the editor himself have written best and most entertainingly. The chapter by Hu Shih

likewise presents an arresting argument, and will likely be read a second time by those in any wise curious-minded. George A. Dorsey has undertaken a tremendous (and we are constrained to add unnecessary) task in his attempted refutation of sundry current theories, during the course of which he attacks various writers and so permits a note of controversy to enter into his article which almost if not quite destroys the effectiveness of his argument. The rest of the chapters of the book will be allowed to stand without comment: most of them are entertaining, most are well written, and all are well worth the reading.

A second fact which will be impressed on the mind of the reader is that the editor apparently has selected his collaborators on the basis of their sympathy for the point of view which the book espouses. And what is that point of view? It is that Western civilization is the modern civilization, that it is essentially a technological civilization, and that it will and should sweep onward until, we are to infer, it encompasses the whole world. The group of writers who have contributed to this symposium are not blind to the faults of the machine civilization and the ills suffered under it, but they have adopted confessedly an optimistic attitude; they expect the western World to expand indefinitely, overriding opposition in the future as it has in the past. And there is no doubt that they make a strong case for their machine way of life. There are those, however, and their numbers are legion and their arguments weighty, who insist that there is another side to the question, who maintain not only that the technological civilization should not prevail, but that it can not, that it is indeed even now tottering to its fall. The reviewer does not mean to intimate of course that every author among Dr. Beard's collaborators is not thoroughly conversant with this literature: what he means to bring out is the point that, being conversant with it, these writers ignore it and assume to speak under the title *Whither Mankind*. Do they write of the progress and problems of mankind, or of the progress and problems of that part of mankind which labors under the machine civilization? What of the half (or shall we say four-fifths?) of the world which is not yet beset by machinery, but which labors yet under a "medieval" civilization?

The question is answered of course by the argument that the machine world is invincible, and that where it clashes with the Eastern (or medieval) civilization it must prevail by sheer force of power. Thus the Western world is destined to roll on, and the printing press, the washing machine, and the Ford with it—nay, carrying it along, for they are the weapons of the Western world. And thus this group of writers, preëminent in their respective countries (which are also the machine countries) rally to the defense of the technological civilization under the title *Whither Mankind*. The book then becomes in effect a defense of the West, for the reason that its authors find that their civilization should and can not but triumph over the face of the world. As such, it is a powerful argument well-weighed on the whole and withal, granting the premises, apparently invincible.

Recent Gains in American Civilization is another collection of articles by several writers and differs from the work just considered in several respects. In the first place, the articles are written apparently more with an eye to popular demands, and thus are set in a journalistic, or semi-journalistic style. In the second place, the authors have omitted the technical aspect, both in subject matter and in treatment, to a large degree, and the arguments usually are easily followed. In the third place, the treatment of the various subjects is not, except in the case of half a dozen chapters, evaluational in its nature. On the contrary, the editor has announced in his Foreword that his collaborators have concentrated by request on the gains in American civilization: their purpose has been not to draw up a balance sheet of gains and losses but to set forth such gains as may be recorded. Hence the articles are a simple chronicling of advances, except for the above-referred-to few.

In the recording of these gains, the editor has sought the services of eleven collaborators, and among them are to be found the names of many outstanding commentators on American life. Listing them and their subjects: Charles A. Beard has written on government, Stuart Chase on business and industry, Mary van Kleeck on industrial relations, Norman Thomas on the quest for peace, Charles S. Johnson on race relations, Oswald Garrison Villard on the press, Dallas Lore Sharp on education, Mary Austin on literature, Rockwell Kent on art, David Starr Jordan on science, and Harry Emerson Fosdick on religion. In addition to these, four observers have written critical essays which appear at the end of the book. John Dewey has written "A Critique of American Civilization;" Henry F. Ward's article is entitled "Progress or Decadence"; Paul Arthur Schilpp asks and answers, to his own satisfaction, the question "Is American Civilization Worth Saving"; and Masaharu Anesaki contributes "An Oriental Evaluation of Modern Civilization."

Not may of these articles can be commented on here, for reasons which will be obvious. It might be mentioned only that the efforts of Norman Thomas to find twenty pages of good in so much that he considers bad are entertaining if not convincing; that David Starr Jordan's argument loses itself, for the reviewer, in a veritable labyrinth of this, that, and the other idea; that Paul Arthur Schilpp and Dr. Beard's Hu Shih should be referred each to the other for a settlement of their dispute; and that Harry F. Ward's contribution, in so far as its spirit is concerned, might with more logic have appeared in the columns of the *American Mercury* than in a collection of articles by writers who, while not indulging in "facile optimism," are bent on pointing out some advances in American life. It must be said (and the compulsion rests on naught but the desire for truth) that these fifteen articles are all well written, and that they will more than repay one for the time a reading requires. The editor, remembering that his book will come to the hands of curious and not in all cases well informed readers, has identified his colleagues in a brief statement at the beginning of each chapter, and this bit of thoughtfulness saves the reader from several trips to *Who's Who*.

The American Experiment was produced by the joint efforts of the confessed author and Mr. Avery Claflin, an American observer. Just what part Mr. Claflin played in writing the book is nowhere stated, but it is certain that he wrote the "Foreword"; and from the Foreword a few lines may be taken which set forth pretty accurately the plan of approach followed and (in general) the content of the book. The lines follow: "After a brief critical sketch of governmental machinery there follows a panoramic description of the great modern nation: its work, its play, its moral qualities and prejudices, its emotions, beliefs and ambitions. This section is perhaps the most significant part of the book. Here are reviewed the qualities of American life today which contribute to an original civilization—qualities not found in histories or documents, but in business life, politics, the press, educational institutions, churches, the arts, amusements, and in general the reactions of individuals to all of these. This is followed by a study of the effects which the old and new worlds have had upon each other. A summary points out the salient features of American civilization which Europe might advantageously adopt or adapt to its own purposes."

By way of criticism, several errors should be mentioned. In the first place, on page 52 the author has permitted a flagrant (though mechanical) error to creep into his work in naming 1880 as the date on which Spain gave Louisiana back to France. Nor is this the only error found, though the book is remarkably free from the errors of fact. Those with a turn of mind for the meticulous might charge the author with a few inconsistencies. Thus on page 16, with reference to the New England colonists, it is said that "All initiative came from their group, not from the government which, without being hostile, was content to ignore them"; while on page 22 the author refers to the British government as a "meddlesome central government." Here again the offenses are not sufficiently serious in nature to give rise to adverse criticism in any considerable volume.

On the whole, however, the book will be found a very good piece of writing. It contains little or no factual material that is new, nor is that which is presented in any wise complete. The author confessedly has selected only such material as has appealed to him as being necessary to his cause, which is to "trace in architectural lines the rise and promise of the (American) civilization." The book thus is one largely of interpretations and attitudes: it presents the reactions and conclusions of an observer of the American scene. And it presents them well. The chauvinist may quarrel with Mr. Fay's conclusions and he may take exception to any number of his side thrusts; but he will never, I think, accuse the author of unfairness or bias. Nor will he accuse him of dullness or lack of interest, for the argument at all stages intrigues the interest. It is, to be brief (and much as the word is overworked), stimulating. It was worth writing; it certainly is well worth reading.

Roscoe C. Martin.

University of Texas.

A statesman's autobiography is usually the product of his old age, when his active career has drawn, or is drawing, to a close, and he has leisure to reflect on what he and others have done. But that of Mussolini [Mussolini, Benito, *My Autobiography (with a Foreword by Richard Washburn Child)*. (New York: Charles Scribner's Sons, 1928, pp. 311) is written in the midst of the feverish public activity in which Facism is perpetually engaged. One wonders how he ever found time to perform this task.

It is doubtless his vanity, his unconscious self-deception, his theatrical craving for recognition that prompted this apology. It has been so with all usurpers. The *parvenu* never feels quite sure of his reputation, and, hence, must disgorge his soul—and the world can, of course, well distinguish between his "soul" and the facts of body and mind. Naturally, then, this work is far from being a history of the years which Mussolini has dominated; still less is it a comprehensive survey of the achievements of Fascism. Mussolini is so immersed in his own feelings and moods and motives that he never gets far enough from himself to give more than a cursory narrative of events. The setting is only created for the chief actor. The quality that most impresses one in this autobiography is the everlasting self-glorification. It is his courage, his strong will, his probity, his unerring judgment that guides Italy at every point. He has been his country's savior, and Fascism is its one panacea for strength and happiness.

It can easily be judged that the chief value of the book is its contribution to an understanding of Mussolini himself. And whatever may be said of the man's conceit and his limited power of introspection, the reader of his story can not but be impressed with the man's sincerity. If any one believes that *Il Duce* is a mere ambitious adventurer, he should by all means read this book. Mussolini undoubtedly believes that he brought Italy from darkness into light. The first chapters, dealing with his family and early life, are among the most illuminating. Naturally enough, he glosses over, or omits, the contradictions in his career, and he garbles the Matteotti episode beyond recognition. The reviewer believes that Mussolini is a great man, who has understood the needs and limitations of his people, and how best to meet them, but he would be more sure of his greatness, if he had not taken pains to write this encomium of himself.

Mussolini avows the belief that the Fascist state will endure. Neither the avowal or the opinion is, of course, worth much, but it is interesting to have such a statement on record.

T. W. Riker.

All those who have devoted any attention to the study of State government in this country are aware in a general way that the State constitutions more recently adopted or revised are much longer and more complex than the earlier ones. A few studies have been made of the conditions under which particular constitutions were adopted, with a view to explaining the documents themselves against their historical backgrounds.

No single study, however, had examined the trends of our State constitutions in general until Sister M. Barbara McCarthy completed her valuable investigation which bears the title (rather too comprehensive, since the book discusses only the constitutions of our States), *The Widening Scope of American Constitutions*. (Washington: Catholic University Press, pp. 134.)

In a carefully documented work, to which both interest and clarity are added by graphs and tables, she indicates when and under what conditions new ideas have crept into the various State constitutions. Thus, the extension of the franchise, the development of the practice of electing judges, the growth of constitutional provisions affecting social and economic questions such as education, the control of railroads and other corporations, labor conditions, and prohibition, and the increasing attention given to local government in the State constitutions, are summarized here in a very useful fashion.

The author finds in the changing content of constitutional provisions "a development which is an effect of . . . the growth toward complexity of governmental functions under the pressure of modern political, social and economic facts." This development is characterized as a complete breaking away from the earlier policy of *laissez faire* and a marked working of a more significant policy, that of constitutional interference." The controversial question, whether it is advisable that a constitution should include material in no wise logically related to organic law, does not fall within the scope of the study and is not discussed, although the author remarks that "State control over social and political interests could be effected as well by legislative enactments as by constitutional provisions."

The chief fault of the book is probably the length of the chapters, most of which would better have been broken up into several shorter ones. The subheads employed, however, mitigate this objection. There is no index, and the brief table of contents by no means atones for this lack. A very useful bibliography, particularly rich in its lists of charters, organic acts, and other documents of fundamental importance to constitutional history, conveniently arranged for each State, adds much to the value of the study.

It is to be hoped that the author will find time in the future to supplement the present volume by a more comprehensive study showing in greater detail the political, economic and social conditions under which various changes and developments in the content of State constitutions have come about. The metal already mined is valuable and the mine is still rich.

MIRIAM E. OATMAN.

The Direct Primary has now been in our midst for many years; it has been tried in various forms, and has been subjected to every manner of experimentation, yet no thorough and comprehensive work has ever appeared which would permit a true evaluation of its merits and demerits. The need for such an undertaking is recognized in the preface of *Primary Elections* [Merriam, Charles Edward, and Overacker, Louise

(Chicago, University of Chicago Press, 1928, pp. x, 448).], but a lack of the funds "necessary for this important piece of research" has prevented its being attempted, and "there seems to be no immediate prospect that such a thoroughgoing investigation will be made." *Primary Elections* is therefore submitted with this apology, but with the hope that it may nevertheless be of some use. The work is substantially that of Professor Merriam. He acknowledges, however, the material assistance of several collaborators, the chief of whom was Miss Overacker. It is essentially a revision of his earlier work bearing the same title, which was published twenty years ago. Regardless, therefore, of the lack of sufficient source material, it goes without saying, that no one more than Professor Merriam is equipped either from the standpoint of study or observation to undertake the present work.

Obviously a revision of a twenty-year-old work on the Direct Primary is practically a new book. The first three chapters are concerned with the early history of the primary down to 1899, while the next two chapters cover the regulation of the Convention system and Direct Primary legislation from 1899 to 1927. The remaining ones present a survey of judicial interpretations of primary laws, a brief summary of the Presidential Primary (by Miss Overacker), and a detailed analysis and summary of the practical workings of the Direct Primary. Four very useful appendixes are attached, containing: a summary and digest of primary laws, a comprehensive bibliography, a list of important cases, and a list of primary laws.

O. D. W.

The Workers' Educational Association of England has published two more of the short textbooks for use in elementary classes. *The Industrial Revolution* by H. L. Beales (London, New York: Longmans, Green & Co., 1928, pp. 90) impresses one chiefly as being just another of the popular accounts of that period of social upheaval. The story is written in a vivid style, is balanced in emphasis if not penetrating in analysis, and is calculated throughout to stimulate additional reading on the part of the student. As would be expected, practically all the material comes from the works that have been standards for years. The chapters on population and on the rise of labor organizations are probably the best in the book. The dangers in such short, popularized treatments of complex social movements are that the writer will, in spite of himself, fall into too-facile generalizations and that the elementary student will get a false sense of omniscience. Mr. Beales seems to have avoided these dangers about as well as could be expected in a ninety-page treatment of the industrial revolution.

A. Creech Jones' *Trade Unionism Today* (London, New York: Longmans, Green & Co., 1928, pp. 89) deals with the structure, government, and membership of trade unions, compulsory arbitration, collective bargaining, and political action. The provisions of the 1927 Trades Disputes Act are summarized. There is no adequate discussion of trade union theory, and very little critical appraisal. The book is, of course, aimed at a friendly clientele.

R. E. M.

John Preston Comer's *Legislative Functions of National Administrative Authorities* (New York: Columbia University Press, 1927, pp. 274) is one of a series of publications of the Columbia Press of recent appearance dealing with special phases of the American national legislative process. In this work recent tendencies in the delegation of legislative power to the executive branch are considered, although by way of introduction a chapter is devoted to the history of such delegation, beginning in 1789. The author shows that Congress has been forced to delegate its legislative powers to such an extent that "government by law and rule has become, in large part, government by the wish and discretion of administrative officers." Administrative legislation, he divides into two general classes—complementary and contingent—based, as he says "upon the particular manner of investment of delegation." One chapter is concerned with developing the distinctions, which are not always clear, between these two classes. Other chapters consider: the constitutional and legal aspects of delegation, interpretative regulations, and safeguards against the use of the power. The safeguards suggested are: judicial restraint, political checks (i.e., popular responsibility of the executive and congressional control) and the influence of pressure groups.

O. D. W.

The Congressional Conference Committee (New York: Columbia University Press, 1927, pp. 274) by Ada C. McCown is a commendable contribution. The conference committee, while of great importance in the national legislative process, has hitherto received little attention from writers and students. The treatment here is largely historical, tracing the conference committee from its earliest development in England through the colonial period and particularly, of course, its evolution in Congress. Due emphasis, however, is placed upon recent developments in Congress both as to its growth of power and the increasing tendency to restrain that power. The writer points out that at present practically all important congressional legislation falls into the hands of a conference committee and that its power has always been great in the remolding and compromising process. However, it is also true that "there is now more control over the conference committee by the two Houses than there ever has been in the past." Their respective rules have been so amended in recent years as to establish an effective control over conference managers, which prevents to a great extent the old evils of conference committee legislation.

O. D. W.

There is always much interest attached by political scientists to a book on government written by one who has had a long political career, and it is for this reason that *Drifting Sands of Party Politics* (New York: The Century Co., 1928, pp. 422) by Oscar W. Underwood makes entertaining reading. After an extended and varied political career that placed him among the leaders of the Democratic Party, Mr. Underwood in a reflective mood wrote this book to review "the representative

legislation of the Congress enacted in the last thirty years," with the purpose of pointing out "the drift of legislation away from fundamental principles, at the price of the surrender of the rights of the American citizens, in order to appease the passion, prejudice, and greed of organized minorities who pursued their objective regardless of the cost to the people or to the government" (p. 5). This, indeed, is the central theme in his book. After a brief survey of the founding of the American nation and its history, in which the principles exemplified by the founders are extolled, the author then proceeds to discuss the important legislation enacted during his long service in Congress, showing in each instance the work of an ever-insistent minority. In his concluding chapter, Mr. Underwood laments the minority forces controlling government and the invasion by the national government of the field of power reserved to the States. One may question many statements of the writer as he attempts to sustain his main thesis, but the reviewer bears in mind that this book is not intended to be a scientific governmental treatise, but merely a cursory glance at political developments by an important American figure during the political life of the past thirty years.

J. A. B.

One of the first attempts to study scientifically the present governmental systems of Eastern European States, Russia and the new states created therefrom, is contained in Malbone K. Graham's *New Governments of Eastern Europe* (New York: Henry Holt & Co., 1927, pp. 326.) In this book the author gives a lengthy discussion of the old Russian régime, its dissolution, and the establishment of the new states which formerly were parts of the Russian empire. Emphasis is placed not only on the structure of each system, but also upon the practical workings of the system itself through the year 1926. In the dispassionate appraisal of the political developments of each government is found the chief value of the book. In order to give a vivid picture of the rapid changes evident in the establishment of these new governments, changes which have had and will have an important influence upon the future development of each, over two hundred pages are devoted to selected documents covering the important events in the political evolution of each state. These documents, although numerous, certainly have a "developmental" value The political institutions in these states offer a virgin field of study, in which appraisals are difficult, and the author is to be complimented for assuming so difficult a task.

J. A. B.

Society and Its Problems, An Introduction to the Principles of Sociology (New York: Thomas Y. Crowell Company, 1929, pp. xiii–707) by Samuel Grove Dow, is a revision of the author's introductory text in sociology first published in 1922. Factual material has been brought down to date, certain theories have been revised, numerous passages have been rewritten, and two new chapters on Cultural Forces and Social Processes have been added. In its present form the book stands as

one well adapted to the needs of students studying sociology for the first time. Notable inclusions in the books are sections on Population and Social Institutions, subjects so often omitted from introductory texts. Perhaps too much attention is given to social forces as separate concepts and some will find the treatment of social pathology too extensive for the elementary course and too descriptive and not enough analytical. Like most introductory texts in sociology it is almost barren of concrete material designed to stimulate the student to make comparisons and evolve his own social theory. There is a well-chosen bibliography at the end of each chapter.

W. E. G.

The title page of the Monograph, *Denominations in Certain Rural Communities in Texas* (Indianapolis, Indiana: The Training Course for Social Work of Indiana University, 1928, pp. 116), by Reuel Clyde White, informs the reader that it was submitted in partial fulfilment of the requirements for the degree of Doctor of Philosophy in the faculty of political science in Columbia University. The writer was formerly a professor of sociology in the Texas Agricultural and Mechanical College and it was while so employed that the study of demoninationalism in certain rural communities in Texas was undertaken. After presenting the milieu of the rural church, three types of communities are considered from the point of viwe of the kinds of church work they foster. These include the new communities with divided church work communities with unified church work, and old communities with divided church work. These community types are then discussed with reference to the sociological basis of denominationalism, the relation of denominationalism to the effectiveness of church activities, and the relation of the minister to denominationalism. The study makes a valuable contribution to the better understanding of the rural church problem and does so by the use of the case method.

W. E. G.